



ARIZONA SUPREME COURT

Administrative Office of the Courts
1501 West Washington, Suite 105
Phoenix, Arizona 85007

Request for Qualification

RFQ 13-04

Polygraph Examination Services
September 26, 2013

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SECTION 1 INTRODUCTION

1. Introduction

The Arizona Supreme Court (hereinafter referred to as the Court) is issuing this Request for Qualification (RFQ) in order to qualify individuals trained and experienced in polygraph examination services.

This Request for Qualification (RFQ) is being issued solely for the procurement of contracts in which no warranty, express or implied, is made to the contractor(s) by the Court that any services will be purchased during the term of the contract. Any contract(s) awarded pursuant to this RFQ shall state that the services will be purchased only on an “as needed” basis.

This RFQ allows for a continuing qualification period. Qualified vendors may submit their response to the Arizona State Supreme Court, Administrative Office of the Courts Procurement Officer at any time after the initial response due date throughout the term of the contract. The Procurement Officer may add qualified respondents (contracts) at any time during the contract term or an authorized extension. The respondent(s) will be qualified accordingly to the evaluation criteria outlined in this RFQ and expected to follow the instructions set forth herein.

The Court intends to award a firm-fixed price Contract to qualified vendors, unless otherwise indicated, resulting from this RFQ, for a one year period with the option to extend for an additional four years, aggregate five years, pending availability of funds and satisfactory contractor performance. Multiple Contracts may be awarded.

Based on the review of the RFQ responses the Court intends to enter into a Contract(s) for provision of the services described in Section 3.

Vendors who wish to submit a sealed response based upon the specifications and conditions in this document shall submit it by **4:00 PM, Mountain Standard Time (MST), October 22, 2013** in accordance with the schedule below.

The initial public opening will be conducted on October 22, 2013, 4:00 PM, MST, at the Arizona State Courts Building, 1501 W. Washington, Conference Room 230, Phoenix, Arizona.

2. Respondent's Conference

No proposer's conference will be held.

3. Schedule

Activity	Date
a. Request for Qualification (RFQ) Published	September 26, 2013
b. Deadline to Submit Written Questions	October 3, 2013
c. Response to Written Questions/RFQ Amendments	October 7, 2013
d. Initial RFQ Due Date	October 22, 2013

The Court reserves the right to deviate from this schedule.

Responses received after 4:00pm, MST, October 22, 2013, will be accepted but will not be opened and will not be taken into consideration in the evaluation of responses.

4. Evaluation of Request for Qualification

Responses will be evaluated based upon the criteria outlined in Section 5 of this document. The contract(s) shall be entered into with the responsible respondents(s) whose response is determined in writing to be the most advantageous to the Court taking into consideration the evaluation factors set forth in the Request for Qualification. Contracts may be added throughout the term of the contract period as respondents become qualified through the Arizona State Supreme Court, Administrative Office of the Courts, Procurement Office. The Court reserves the right (prior to contract award) in its discretion, to inspect a vendor's facilities, contact individual references, and to consider other sources of information to determine evaluation scores.

The Court intends to award a firm-fixed price contract, unless otherwise indicated, resulting from this solicitation to the responsible bidder whose response is determined in writing to be the most advantageous to the Court. The Court may reject any or all responses and/or cancel this procurement and re-solicit, if such action is in the Court's best interest. The Court may waive informalities and minor irregularities on proposals received.

No other factors or criteria may be used in the evaluation. The amount of any applicable transaction privilege or use tax of a political subdivision of this state is not a factor in determining the most advantageous response if a competing respondent located outside of this state is not subject to a transaction privilege or use tax of a political subdivision of this state.

If there are no respondents who adequately meet the Court's specifications and/or budget, the Court reserves the right to reject any or all responses or parts thereof. This RFQ does not commit the Arizona Supreme Court to award any contract or to pay any costs incurred in the preparation of responses. The Court reserves the right to accept or reject, in whole or in part, all responses submitted and/or to cancel this RFQ.

5. Response Discussions

The respondent's initial response should contain the respondent's best terms from a price or cost and technical standpoint. Discussions may be conducted with responsive, responsible respondents who submit offers determined to be reasonably susceptible to permit a contract award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Award may be made without discussions, therefore, offers shall be submitted complete and on most favorable terms. In conducting discussions, there shall be no disclosure of any information derived from responses submitted by competing respondents. The Court reserves the right to conduct discussions if the procurement officer determines them to be necessary. The Court may issue a written request for best and final offers from all respondents whose responses are responsive and susceptible for award.

Negotiations with respondent's whose response has been determined in the selection process to be most advantageous to the Court may be conducted. Negotiations shall not constitute a contract award nor shall it confer any property rights on the successful respondent.

6. Americans with Disabilities Act

People with disabilities may request special accommodations such as interpreters, alternative formats, or assistance with physical accessibility. Requests should be made as early as possible to allow time to arrange the accommodation.

If you require special accommodations, please call (602) 452-3329 or text telephone (TDD) 452-3545.

SECTION 2 INSTRUCTIONS AND PROCEDURES

1. Necessary Documents

Vendors who wish to submit a response for RFQ 13-04 shall complete all necessary documentation as identified in Section 5 of this Request for Qualification.

2. Specifications

The specifications included in this package provide adequate information as to whether or not vendors can meet the needs of the Court. Significant deviations from the specifications may be grounds for disqualification of the proposal.

3. Procurement Rules

The Rules Prescribing Procurement Policies and Procedures for the Administrative Office of the Courts (AOC) (hereafter referred to as the AOC Judicial Procurement Rules) adopted by the Arizona Supreme Court by Administrative Order 2013-44 are incorporated by reference herein and are made a part of this document as if they are fully set forth herein. Copies of these rules can be obtained from the Procurement Officer, Arizona Supreme Court, at the address referenced on the cover page or at <http://www.azcourts.gov/adminservices/Procurement.aspx>.

4. Subcontractors

No direct service rights or obligations shall be assigned, delegated, or subcontracted in whole or in part, without the prior written approval of the Court.

5. Vendor Certification

By submission of a response, the vendor certifies that:

- A. The vendor has not paid nor agreed to pay any person, other than a bona fide employee, a fee or a brokerage resulting from the award of the contract.
- B. The prices in the response have been arrived at independently without consultation, communication, or agreement, for the purpose of restricting competition as to any matter relating to such prices with any other vendor.

6. Preparation of the Response

- A. Vendors are expected to examine all rules, documents, forms, specifications, standard provisions, instructions, and seek clarification in writing (inquiries) and examine its response for accuracy before submitting an offer: These materials can be made available in alternative formats upon request. Failure to do so will be at the vendor's risk.
- B. Each vendor shall furnish all information required by the RFQ. The vendor should refer to Appendix A which contains the RFQ submittal checklist, to ensure all required materials have been enclosed.

7. Definitions

- A. Contract: Means a written contract executed by the Court and a Qualified Vendor.
- B. Court: Means Arizona Supreme Court, State of Arizona, Administrative Office of the Courts.
- C. May: Denotes the permissive.
- D. Qualified Vendor means a Respondent who is either an individual, or who is a company having one or more individuals, possessing the qualifications in Polygraph Examination described in this RFQ that has satisfied any conditions set by the Court for entering into a Contract.
- E. Response means a statement of qualifications for an individual submitted in reply to this RFQ.
- F. RFQ or Request for Qualification means the process described in this document.
- G. Shall, Will: Denotes the imperative.
- H. Should or Desirable means a requirement having a significant degree of importance to the objectives of this RFQ.
- I. Time if stated as number of days, will be calendar days.

8. Explanation to Respondents

Any inquiries/questions related to this RFQ are to be directed in writing to the contact person below. Any verbal or written inquiries directed to anyone other than the contact person specified below will not be considered. All questions must be submitted by **October 3, 2013** by 5:00PM, Arizona Time to:

Melba Davidson, Procurement Officer
Arizona Supreme Court
1501 West Washington, Suite 105
Phoenix, Arizona 85007-3231
Email: mdavidson@courts.az.gov
Fax: (602) 452-3395

The questions and responses will be posted to the Arizona Judicial Branch website. Any explanations or clarifications given at the website will be considered added to the specifications. Interested parties must check the website at <http://www.azcourts.gov/adminservices/Procurement.aspx>

9. Submission of Responses

- A. Sealed responses are due on or before 4:00PM, MST, October 22, 2013, to Melba Davidson, Procurement Officer, Arizona Supreme Court, 1501 West Washington, Suite 105, Phoenix, Arizona 85007-3231. Responses must be in the actual possession of the Court on or prior to the exact time and date indicated. Late responses will not be considered under any circumstances.
- B. **Responses must be submitted in a sealed envelope with the RFQ number and the vendor's name and address clearly indicated on the outside of the package.** All responses must be completed in ink or be typewritten.

- C. The vendor must submit one (1) original and three (3) copies of each response.
- D. Vendors submitting a response shall indicate the vendor's name and the RFQ number on each page of the document.
- E. Erasures, interlineations, or other modifications in the response must be initialed by a person authorized to sign the response and contract.
- F. All responses and accompanying documentation will become the property of the Court at the time the responses are opened.

10. Public Opening

A public opening of responses shall be held at 4:00PM, MST, October 22, 2013, at the Arizona State Courts Building, 1501 W. Washington, Conference Room 230. At that time, the name of each respondent shall be recorded. All other information contained in the response shall be confidential so as to avoid disclosure of contents prejudicial to competing vendors during the process of negotiation. The responses shall be open for public inspection after a contract is entered into. However, where the respondent designates, and the court concurs, any trade secrets or other proprietary information contained in the response, documents shall remain confidential.

11. Contract

As set forth in this RFQ, the contract shall be entered into with the responsible vendor whose response is determined in writing to be the most advantageous to the Court taking into consideration the evaluation factors set forth in the RFQ. Multiple contracts may be awarded.

SECTION 3 SPECIFICATIONS

I. **Specifications Introduction and Overview**

The Arizona Supreme Court (hereinafter referred to as the Court) is issuing this Request for Qualification (RFQ) in order to qualify individuals trained and experienced in Polygraph Examination Techniques.

II. **Background**

The Arizona Court Appointed Special Advocate (CASA) Program is a statewide community-based volunteer organization administered by the Arizona Supreme Court. CASA offices serve the juvenile courts in each of the 15 counties in Arizona. CASA volunteers advocate to the court the best interests of abused and neglected children. One of the many screening requirements to be accepted into the CASA Program is a polygraph examination. In fiscal year 2014 it is expected that approximately 200 applicants will take the polygraph examination.

III. **Service Tasks / Deliverables**

- A. To provide comprehensive polygraph examinations for volunteer candidates of the CASA Program;
- B. Prepare and provide in writing, within 5 days of evaluation, the results of volunteer examinations to the appropriate county CASA Coordinator/Program Manager. The state program office supplies the form for this purpose. All backup documentation of a “failed exam” or “untruthful results” will accompany the Results Form that is forwarded to the CASA Program;
- C. Provide a Consent/Waiver of Liability form to each applicant, and ensure the form is signed prior to administering an examination;
- D. Report “no shows” to the appropriate county CASA Coordinator/Program Manager, within one business day; and
- E. Complete monthly billing invoices accurately, completely, and in a timely manner.

IV. **Vendor Qualifications**

- A. VENDOR and VENDOR’s examiners shall have graduated from an accredited American Polygraph Association (APA) school.
- B. VENDOR and VENDOR’s examiners must be members in good standing with one of the following polygraph associations:
 - i. The American Polygraph Association
 - ii. The American Association of Police Polygraphists
 - iii. The National Polygraph Association

- C. VENDOR and VENDOR's examiners shall adhere to the established code of ethics, standards and practices of the American Polygraph Association (APA), the American Association of Police Polygraphists or the National Polygraph Association.
- D. VENDOR and VENDOR's examiners shall conduct all examinations in a manner that is consistent with reasonably accepted standards of practice in the clinical polygraph community.
- E. VENDOR and VENDOR's examiners shall document at least three years' experience in conducting polygraph examinations.
- F. VENDOR and VENDOR'S examiners shall have completed an APA approved polygraph examiner training program.
- G. VENDOR shall use standardized polygraph techniques that are numerically scored and have experience in more than one standardized polygraph technique.
- H. VENDOR shall render a diagnostic opinion on test results based on appropriate and recognized analysis of polygraph charts.
- I. VENDOR shall use equipment that is current/modern technology and guaranteed to operate in accordance with acceptable industry standards.
- J. VENDOR shall maintain an effective quality control process that allows for independent review of all documentation, polygraph charts and reports by reviewers selected by the COURT.
- K. VENDOR will ensure the applicants rights to privacy and informed consent are protected in compliance with all applicable federal and state laws including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191)(HIPAA) and the regulations promulgated thereunder.
- L. VENDOR shall not offer any information and/or advice to participant other than to explain the examination process.

V. Credential Certification

- A. VENDOR must submit copies of resumes, certificates of expertise and college degrees for all employees providing direct services to the applicants referred by the COURT. Resumes must include both education and related work experience.
- B. VENDOR's employees who have contact with applicants must submit to a background check by the COURT. The background check may include a criminal records check. VENDOR must also direct its employees to the County Sheriff's

Department to be fingerprinted prior to any contact with applicants. VENDOR shall be responsible for any cost associated with fingerprinting of its employees.

- C. VENDOR will obtain a signed background check release form from employees who have contact with applicants. VENDOR shall provide the signed background check release form to the COURT prior to any contact with applicants. A background check typically takes two to three weeks to complete, although the COURT cannot guarantee a specific time frame. VENDOR's employees shall not have contact with applicants until the COURT has completed the background investigation and given permission for the employee to have such contact.
- D. VENDOR will provide proof of current Driver's License upon contract and annually thereafter, to the CASA State Program Manager in order to conduct business for the Court and to request travel reimbursement in the performance of CASA work.
- E. The COURT reserves the right to deny the utilization of an employee of the VENDOR for the purposes of this contract. The decision of the COURT as to the eligibility of the employee for contact with applicants is final and not appealable. Pursuant to state law, the information derived from the background check cannot be divulged to the VENDOR, the VENDOR's employee or any other unauthorized party.

VI. **Other Specifications**

Arizona CASA Program:

- A. An examiner shall not limit the number of exams to be conducted on any given trip.
- B. The Arizona CASA Program provides program-specific questions to ask prospective CASA volunteers.
- C. In counties outside the examiner's place of business, the county CASA Program will provide office space in which to hold exams.
- D. Mileage, lodging, and per diem expenses shall not exceed allowable limits for state employees on travel status, as published in the Arizona Accounting Manual.
- E. All lodging must be approved by the CASA Coordinator/Program Manager prior to travel.

VII. **Pricing / Cost**

In accord with the RFQ Announcement and Specifications contained herein, the Court seeks pricing for the following:

Type of Examination	Average Time per Examination	Price per Examination*
	_____ Hour(s)	\$ _____
	_____ Hour(s)	\$ _____
	_____ Hour(s)	\$ _____

* Court reserves the right to negotiate proposed pricing.

The Vendor must use the cost format provided above. Any errors are solely the responsibility of the Vendor. Please note any additional cost(s) proposed in conjunction with direct service delivery outlined above. These additional costs proposed may be added to the contract at the sole discretion of the Court.

**SECTION 4
RESPONSE EVALUATION CRITERIA**

Responses will be evaluated in two phases:

1. An initial review to determine the responsiveness of the response to the requirements for the Request for Qualification (RFQ). Responses may not be considered responsive and/or acceptable if they do not contain information sufficient to evaluate the proposal in accordance with the factors identified in the RFQ or other necessary response components. Necessary components include: an indication of the bidder's intent to be bound, price proposed, RFQ amendments, and reference information as required. For a response to be considered responsive, it must meet the following mandatory requirements:
 - A. A sealed original (1) copy and three (3) copies must be physically in the possession of the Arizona Supreme Court, 1501 W. Washington, Suite 105, no later than 4:00PM, MST, October 22, 2013.
 - B. The response must include all required items, in substantially the same structure, listed on the Respondent's Submittal Checklist (Appendix A).
 - C. The original and all copies of the response must be in ink or typewritten.
 - D. The response must be in English and must not be sent by facsimile or email.
 - E. The Court may waive informalities and minor irregularities on responses received.

2. An in-depth analysis and evaluation will be based upon the following criteria. The evaluation criteria are listed in order of relative importance.

Evaluation Criterion/Factor	Relative Importance
A. Experience and Performance (including past service to the Arizona courts, if applicable)	35%
B. Methodology	35%
C. Pricing	30%

SECTION 5
RESPONDENT'S SUBMITTAL DOCUMENTS

The following materials must be submitted as part of a vendor response:

1. Respondent's Submittal Letter (Appendix A);
2. Vendor Profile (page 16)
3. Vendor Performance Criteria (page 17)
4. Copies of resume, certificates of training / expertise, licensure, and college degrees
5. Proposal References (Appendix B)
6. Proposal Pricing / Cost
7. List of Arizona Counties in which you are willing to provide services.
8. A description of exceptions (if any) to the sample contract terms provided in Appendix C of the RFP. Any exceptions to the sample contract terms must be noted in the vendor response.
9. Additional Data (any additional descriptive/narrative data the vendor wants to submit.

**APPENDIX A
RESPONDENT'S SUBMITTAL LETTER
(Use as page 1 of response)**

Melba Davidson, Procurement Officer
Arizona Supreme Court
Administrative Office of the Courts
1501 W. Washington, Suite 105
Phoenix, Arizona 85007-3231

Dear Ms. Davidson:

In response to your Request for Qualification (RFQ) number 13-04, the following response is submitted

In submitting this response, I hereby certify that:

1. the RFQ has been read and understood;
2. my company will comply with the requirements set forth in the RFQ;
3. the materials requested by the RFQ are enclosed;
4. all information provided is true, accurate, and complete to the best of my knowledge;
5. this response is submitted by, or on behalf of, the party that will be legally responsible for service delivery should a contract be awarded.

Signature of Authorized Official

Date

Name of Signatory: _____

Company: _____

Title: _____ Phone: _____

Address: _____

Federal Employer ID# or SSN#: _____

VENDOR PROFILE

(Information can be on a separate sheet)

What is the physical address, mailing address, and fax number of your company's main office?

Who in your company will be our primary point of contact during the evaluation process? (Please provide name, title, direct phone number, e-mail address, fax number, and mailing address).

Who in your company is authorized to negotiate a contract with us? (Please provide name, title, direct phone number, fax number, and mailing address).

Provide a brief history of your company.

Indicate the total number of employees and names of employees who will be providing polygraph examination services in your company.

Provide most recent financial statement and/or applicable tax return document (confidential information, such as, social security number may be redacted from your tax return).

Comment on any partnership(s) with other vendors.

VENDOR PERFORMANCE CRITERIA

1. Summary of Business

A. Describe your experience in conducting polygraph examinations, the length of time you have been providing services and the specific agencies and/or businesses with whom you have worked.

B. Identify any lawsuits, complaints or challenges that you have been involved in and any actions taken as a result.

2. Testing Methodology

Describe your polygraph examination process and provide copies of any questionnaires or structured interview questions as applicable.

3. Confidentiality

Describe disclosure and retention policies for maintaining clinical records.

APPENDIX B

PROPOSAL REFERENCES

(Use as page 2 of proposal)

Vendors shall provide at least three (3) references (Phoenix or Tucson metropolitan areas preferred). Please provide the following information for each reference:

- CLIENT NAME:** Identify the name of the client or site as appropriate.
- CONTACT NAME:** Identify who the point of contact at the client or site should be.
- CONTACT INFORMATION:** Provide the address and telephone number where the client or contact can be reached.
- PROJECT DESCRIPTIONS:** Attach brief descriptions of projects performed for the references provided.

<u>CLIENT NAME</u>	<u>CONTACT NAME</u>	<u>CONTACT INFORMATION</u>
--------------------	---------------------	----------------------------

- | | | |
|----|-------|-------|
| 1. | _____ | _____ |
| | _____ | _____ |
| 2. | _____ | _____ |
| | _____ | _____ |
| 3. | _____ | _____ |
| | _____ | _____ |

APPENDIX C
SAMPLE CONTRACT
SERVICE CONTRACT

Arizona Supreme Court
Administrative Office of the Courts

Solicitation Number: RFQ 13-04

Vendor: _____

This contract is between the ARIZONA SUPREME COURT, ADMINISTRATIVE OFFICE OF THE COURTS ("Court"), located at 1501 W. Washington, Phoenix, Arizona 85007, and _____, ("Contractor") at _____ [address].

Recitals

1. Article 6, Section 3, of the Arizona Constitution grants administrative supervision over all of the courts of the State to the Arizona Supreme Court.
2. The Contractor specializes in administering polygraph examinations and can perform the work specified in this Contract within the time limits established by the Court.
3. The Court desires to employ the Contractor to perform the polygraph examinations described in Request for Qualification 13-04.

Now, therefore, in consideration of the mutual promises set forth in this Contract, the parties agree as follows:

Certification

By execution of this Contract, Contractor certifies:

- A. The submission of the offer did not involve collusion or other anti-competitive practices.
- B. Contractor shall comply with all applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunity, immigration, non-discrimination, including the Americans with Disabilities Act, and affirmative action. Contractor shall include a clause to this effect in all subcontracts related to this Contract.
- C. The Contractor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract. Signing this Contract with a false statement shall void the Contract and may be subject to all legal remedies provided by law.

- D. The Contractor agrees to promote and offer to agencies eligible to purchase under this Contract only those materials and/or services as stated in and allowed for under this Contract as Court contract items.
- E. No individual or agent has been employed or retained to solicit or secure this Contract for a commission, percentage, brokerage or contingent fee, except a bona fide employee maintained by Contractor to secure business. This paragraph does not apply to payment of fees for assistance in marketing, installation, and support or for any other purpose in performance of this Contract.

Now, therefore, in consideration of the mutual promises set forth in this Contract, the parties agree as follows:

Terms and Conditions

1. **Duration of Contract.** This Contract shall begin on execution and shall terminate on June 30, 2014.
2. **Extension of Term.** The Contract may be extended beyond the basic term by mutual agreement of the parties up to (4) four additional years for an aggregate of (5) five years. To extend the term, the Court shall provide written notice to the Contractor of its desire to extend the Contract not less than 60 days prior to the expiration of the Contract term or any subsequent extension. If both parties agree, any extension shall be effected by an amendment to the Contract signed by both parties. Contract extensions are subject to the availability of funds.
3. **Description of Services.**

The contractor agrees to perform the following services:

Upon written request of a CASA Coordinator/Program Manager, Contractor shall perform polygraph examinations. Contractor shall not interact with the applicant other than what is necessary to administer the polygraph examination.

The examination(s) shall be given at Contractor's office, currently located at _____, or at a place to be designated and supplied by the Court. Services will be provided in the following Arizona counties: _____. Contractor shall be available to provide these services weekdays and weekends.

Results of these polygraph examinations shall be provided to the CASA Coordinator/Program Coordinator or Court representative who referred the examinee for the service within five (5) working days from when the exam was taken. All backup documentation of a "failed" exam or "untruthful results" will accompany the Results Form forwarded to the CASA Coordinator/Program Manager or Court representative. The Contractor shall submit an invoice to the Court which includes the name of the examinee, the date of the exam, the county of the exam, and the results of the exam. Written documentation of the exam results shall be provided upon request to substantiate the invoice. The Court may request a full, written report on any exam it deems necessary. Contractor will not release any information or documentation regarding this contract to any other person. All requests for information or documentation will be referred to the Court.

4. **Gratuities.** The Court may, by written notice to the Contractor, terminate the Contract if it is found that gratuities in the form of entertainment, gifts, or otherwise were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the Court or the state with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performance of such Contract. In the event this Contract is canceled by the Court pursuant to this provision, the Court shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity. Paying the expense of normal business meals which are generally made available to all eligible customers shall not be prohibited by this paragraph. The Court, in addition to any other rights or remedies shall be entitled to recover exemplary damages in the amount of three times the value of the gratuity offered by the Contractor.

5. **Payment for Services**

Contractor shall submit a detailed invoice for services rendered and applicable travel expenses no more often than once per month. Court will provide the Contractor with a contract number and the contractor will reference the number on all invoices. The invoice shall include the name of the examinee, date of exam, the county of the exam, and the results of the exam. Documentation, where appropriate, must accompany each invoice submitted.

Fees for the polygraph examination will be as follows: \$_____ per Examination

Mileage, lodging, and per diem expenses shall not exceed allowable limits for state employees on travel status, as established for State Employee's travel. A copy of the guidelines can be obtained from the Finance Division of the Court upon request.

No expense for lodging will be paid without written approval by the Court prior to travel.

6. **Availability of Funds.** Payments for contractual obligations are contingent on funds for that purpose being appropriated, budgeted, and otherwise made available, and the provisions of the Contract shall be effective only when funds appropriated for the purpose of compensating Contractor actually are available to the Court for disbursement. The Administrative Director of the Courts shall be the sole judge and authority in determining the availability of funds under the Contract and shall keep the Contractor informed as to the availability of funds. The Court shall not be liable for any purchases or subcontracts entered into by Contractor in anticipation of funding.
7. **Assignments and Subcontracts.** No direct service rights or obligations shall be assigned, delegated, or subcontracted in whole or in part, without the prior written approval of the Court.
8. **Other Contracts.** The Court may perform additional work related to this Contract or award other contracts for such work. The Contractor shall cooperate fully with such other

contractors or state employees in the scheduling of and coordination of its own work with such additional work.

9. **Applicable Law.** The laws and regulations of the State of Arizona shall govern the rights of the parties, the performance of this Contract and any dispute thereunder. Any action relating to this Contract shall be brought in an Arizona Court in Maricopa County. Any changes in the governing laws, rules and regulations during the term of this Contract shall apply and do not require an amendment to this Contract.
10. **Arizona Judicial Procurement Rules.** The Arizona Supreme Court Rules Prescribing Procurement Policies and Procedures for the Administrative Office of the Courts (AO 2013-44) are incorporated as a part of this document as if fully set forth herein.
11. **Entire Agreement and Interpretation.** This Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement and shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders or master agreements in any form. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object. Whenever a term defined by the Judicial Branch Procurement Code is used in the Contract, the definition contained in the Code shall control with the provisions of the Judicial Branch Procurement Code governing in the case of conflicting terms.
12. **Amendments and Waivers.** Amendments to the Contract shall be in writing and shall be signed by all parties to the Contract. To the extent that any amendments to the Contract are in conflict with the basic terms and conditions of the Contract, the amendments shall control the interpretation of the Contract. No condition or requirement contained in or made a part of the Contract shall be waived or modified without written amendment to the Contract.
13. **Provisions Required by Law.** Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.
14. **Conflicts of Interest.** The Court may cancel this Contract without penalty or further obligation pursuant to ARS §38-511, if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of the Court is or becomes at any time, while the Contract or any extension of the Contract is in effect, an employee of any other party to the Contract in any capacity or a consultant to any other party to the Contract with respect to the subject matter of the Contract. Cancellation shall be effective when written notice from the Court is received by all parties to the Contract unless the notice specifies a later time.

15. **Severability.** If any provision of the Contract is held invalid or unenforceable, the remaining provisions shall continue valid and enforceable to the full extent permitted by law.
16. **Relationship of the Parties.** It is clearly understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever. The Contractor is an independent contractor in the performance of work and the provision of services under this Contract, and taxes or Social Security payments shall not be withheld from a Court payment issued hereunder.
17. **Interpretation.** This Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object. Whenever a term defined by the AOC Judicial Branch Procurement Rules (AO 2013-44) is used in this Contract, the definition contained in these rules shall control the provisions of the AOC Judicial Branch Procurement Rules governing in the case of conflicting terms.
18. **Rights and Remedies.** The rights and the remedies of the Court under this Contract are not exclusive. No provision in this document or in the Contractor's offer shall be construed, expressly or by implication as a waiver by either party of any existing or future right and/or remedy available by law in the event of any claim of default or breach of contract. The failure of either party to insist upon the strict performance of any term or condition of the Contract or to exercise or delay the exercise of any right or remedy provided in the Contract, or by law, or the acceptance of materials or services, or the payment for materials or services, shall not release either party from any responsibilities or obligations imposed by this Contract or by law, and shall not be deemed a waiver of any right of either party to insist upon the strict performance of the Contract.
19. **Disputes.**
- A. Contract Administrator Procedure. If any dispute arising under this Contract is not disposed of by agreement between the parties within thirty (30) days, then the Court contract administrator identified in this Contract shall decide the dispute in writing and send a copy of the decision to Contractor.
- B. Appeals. If the Court contract administrator's decision is not acceptable to Contractor, the dispute shall be resolved in accordance with the procedures set forth in Supreme Court Administrative Policy 7.04.
- C. Continued Performance. The Court and the Contractor agree that the existence of a dispute notwithstanding, they will continue without delay to carry out all their responsibilities under this Contract that are not affected by the dispute.
20. **Warranties.** Contractor warrants that all services delivered under this Contract shall conform to the specifications of this Contract. Mere receipt of service specified and any

inspection incidental thereto by the Court shall not alter or affect the obligations of the Contractor or the rights of the Court under the foregoing warranties. Additional warranty requirements may be set forth in this document.

21. **Indemnification.** Contractor shall indemnify, defend, and save harmless the Court, the State of Arizona, and their departments, agencies, boards, commissions, officers, officials, agents, and employees (hereinafter referred to as "Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Worker's Compensation Law or arising out of the failure of such contractor to conform to any Federal, State or local law, statute, ordinance, rule, regulation or court decree. It is agreed that Contractor will be responsible for primary loss investigation of the award of this contract, the Contractor agrees to waive all rights of subrogation against the Court, the State of Arizona, and their officers, officials, agents and employees for losses arising from the work performed by the Contractor.
22. **Overcharges by Antitrust Violations.** The Court maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the Court any and all claims for such overcharges as to the goods or services used to fulfill the Contract.
23. **Force Majeure.**
- A. Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God, acts of the public enemy; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-intervention-acts, or failures or refusal to act by government authority; and other similar occurrences beyond the control of the party declaring force majeure which such party is unable to prevent by exercising reasonable diligence. The force majeure shall be deemed to commence when the party declaring force majeure notifies the other party of the existence of the force majeure and shall be deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with this agreement.
- B. Force majeure shall not include late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition. Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent that such delay or failure is caused by force majeure.
- C. If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practical, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such

delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

24. **Right to Assurance.** Whenever one party to this Contract in good faith has reason to question the other party's intent to perform, he may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

25. **Records.** Pursuant to provisions of Title 35, Chapter 1, Article 6 Arizona Revised Statutes §35-214 and §35-215 each Contractor shall retain, and shall contractually require each subcontractor to retain, all books, accounts, reports, files and other records relating to the acquisition and performance of the Contract for a period of five (5) years after the completion of the Contract. All such documents shall be subject to inspection and audit at reasonable times. Upon request, a legible copy of any or all such documents shall be produced at the offices of the Auditor General, the Attorney General, the Supreme Court or any agency doing business under this Contract. This paragraph does not apply to confidential information or trade secrets, such as product costing data, research and development data, and the like.

26. **Advertising.** Contractor shall not advertise or publish information concerning this Contract, without prior written consent of the Court. The Court shall not unreasonably withhold permission.

27. **Right to Inspect Plant.** The Court may, at reasonable times, and at the Court's expense, inspect the place of business of a Contractor or subcontractor which is related to the performance of any contract as awarded or to be awarded, in accordance with the AOC Judicial Branch Procurement Rules (AO 2013-44).

28. **Acceptance.** All services are subject to acceptance by the Court. Service or failing to conform to the specifications of this Contract shall be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. Compliance shall conform to the termination clause set forth in this document.

29. **Exclusive Possession.** All services, information, computer program elements, reports and other deliverables which may be created under this Contract are the sole property of the Court and shall not be used or released by the Contractor or any other person except with prior written permission of the Court.

30. **Licenses and Permits.** Contractor shall maintain in current status all Federal, State, and local licenses and permits required for the practice of the profession and the operation of the business conducted by the Contractor as applicable to this Contract.

31. **Insurance.** Contractor shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor and subcontractors, their agents, representatives, and employees.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The Court in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, its agents, representatives, employees or subcontractors, and Contractor is free to purchase additional insurance.

A. Minimum Scope and Limits of Insurance: Contractor shall provide coverage with limits of liability not less than those stated below.

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage, personal injury and broad form contractual liability.

General Aggregate	\$ 2,000,000
Products – Completed Operations Aggregate	\$ 1,000,000
Personal and Advertising Injury	\$ 1,000,000
Blanket Contractual Liability – Written and Oral	\$ 1,000,000
Fire Legal Liability	\$ 50,000
Each Occurrence	\$ 1,000,000

The policy shall be endorsed to include the following additional insured language: “The Arizona Supreme Court, the State of Arizona, and their agencies, boards, commissions, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.”

2. Worker's Compensation and Employers' Liability

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$ 500,000
Disease – Each Employee	\$ 500,000
Disease – Policy Limit	\$1,000,000

This coverage shall not apply to a contractor or subcontractor exempt under A.R.S. 23-901 when such contractor or subcontractor executes the appropriate waiver (Sole Proprietor/Independent Contractor) form.

3. Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL)	\$1,000,000
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The policy shall be endorsed to include the following additional insured language: “The Arizona Supreme Court, the State of Arizona, and agencies, boards, commissions, officials, agents, and employees shall be named as additional insureds with respect to liability arising out of the activities performed by or on behalf

of the Contractor, involving automobiles owned, leased, hired or borrowed by the Contractor."

4. Professional Liability (Errors and Omissions Liability)

Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000

a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning at the time work under this Contract is completed.

b. The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Work of this contract.

B. Additional Insurance Requirements: The policies shall include, or be endorsed to include, the following provisions:

1. Wherever additional insured status is required, such additional insured shall be covered to the full limits of liability purchased by the Contractor, even if those limits of liability are in excess of those required by this Contract.
2. The Contractor's insurance coverage shall be primary insurance with respect to all other available sources.
3. Coverage provided by the Contractor shall not be limited to the liability assumed under the indemnification provisions of this Contract.
4. All policies shall contain a waiver of subrogation against the Arizona Supreme Court, the State of Arizona, and their agencies, boards, commissions, officers, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

C. Notice of Cancellation: Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the Court. Such notice shall be sent directly to the Court representative and shall be sent by certified mail, return receipt requested.

D. Acceptability of Insurers: Insurance is to be placed with duly licensed or approved non-admitted insurers in the state of Arizona with an "A.M. Best" rating of not less than A- VII. The Court in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

E. Verification of Coverage: Contractor shall furnish the Court with certificates of insurance (ACORD form or equivalent approved by the State of Arizona) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and endorsements are to be received and approved by the Court before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.

All certificates required by this Contract shall be sent directly to the Court's representative. The Court contract number and project description shall be noted on the certificate of insurance. The Court reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. DO NOT SEND CERTIFICATES OF INSURANCE TO THE STATE OF ARIZONA'S RISK MANAGEMENT SECTION.

- F. Subcontractors: Contractors' certificate(s) shall include all subcontractors as insureds under its policies or Contractor shall furnish to the Court separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.
- G. Approval: Any modification or variation from the insurance requirements in his Contract shall be made by the contracting agency in consultation with the Court. Such action will not require a formal Contract amendment, but may be made by administrative action.
- H. Exceptions: In the event the Contractor or sub-contractor(s) is/are a public entity, then the Insurance Requirements shall not apply. Such public entity shall provide a Certificate of Self-Insurance. If the contractor or sub-contractor(s) is/are a State of Arizona agency, board, commission, or university, none of the above shall apply.

32. **Confidentiality of Records.** The Contractor shall establish and maintain procedures and controls that are acceptable to the Court for the purpose of assuring that no information contained in its records or obtained from the Court or from others in carrying out its functions under the Contract shall be used or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the Contract. Persons requesting such information should be referred to the Court. Contractor also agrees that any information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by the Court.

33. **Patents and Copyrights.** The Contractor will, at its expense, defend the Court against any claim that any item furnished under this Contract infringes a patent or copyright in the United States or Puerto Rico. The Contractor will pay all costs, damages, and attorney's fees that a court finally awards as a result of such claim. To qualify for such defense and payment, the Court will give the Contractor prompt written notice of any such claim and allow the Contractor to control, and fully cooperate with the Contractor in, the defense and all related settlement negotiations.

If the use of any item furnished under this Contract becomes, or the Contractor believes is likely to become, the subject of such a claim, the Court will permit the Contractor, at the Contractor's option and expense, either to secure the right for the Court to continue using the item or to replace it or modify it so that it becomes non-infringing so long as the item continues to meet the specifications of the original Contract. However, if neither of the foregoing alternatives is available on terms which are reasonable in the Contractor's judgment, the Court will return the item upon the Contractor's written request. The Contractor will grant the Court a credit for returned items in the full amount of the purchase price.

The Contractor shall have no obligation with respect to any such claim based upon the State's modification of the item or its combination, operation or use with apparatus not furnished by the Contractor.

This paragraph states the Contractor's entire obligation to the Court regarding infringement or the like.

34. **Taxes.** The Arizona Supreme Court is exempt from Federal Excise Tax, including the Federal Transportation Tax. The Court will pay all applicable taxes resulting from this Contract or activities hereunder exclusive of taxes based on Contractor's net income. Sales tax, as required, shall be indicated as a separate item on all invoices.

35. **Termination.**

- A. The Court reserves the right to terminate the whole or any part of this Contract due to failure by the Contractor to carry out any material obligation, term or condition of the Contract. The Court will issue written notice to Contractor for acting or failing to act as in any of the following:
- (1) The Contractor provides material that does not meet the specifications of the Contract;
 - (2) The Contractor fails to adequately perform the services set forth in the specifications of the Contract;
 - (3) The Contractor fails to complete the work required or to furnish the materials required within the time stipulated in the Contract;
 - (4) The Contractor fails to make progress in the performance of the Contract and/or gives the Court reason to believe that the Contractor will not or cannot perform to the requirements of the Contract.
- B. Upon receipt of the written notice of concern, the Contractor shall have ten (10) days to provide a satisfactory response. During the ten day period, the parties will have an opportunity to address the concern. If the response is considered unsatisfactory, the Court will so indicate and participate in continued discussion toward resolving the concern. This process will continue during the ten day period until the concern is adequately addressed. Failure on the part of the Contractor to satisfactorily address all issues of concern by the end of the ten day period may result in the Court resorting to any single or combination of the following remedies:
- (1) Cancel the Contract;
 - (2) Reserve all rights or claims to damage for breach of any covenants of the Contract;
 - (3) Perform any test or analysis on materials for compliance with the specifications of the Contract. If the results of any test or analysis confirms a material noncompliance with the specifications, any reasonable expense of testing shall be borne by the Contractor;
 - (4) In case of default, the Court reserves the right to purchase materials, or to complete the required work in accordance with the AOC Judicial Branch Procurement Rules (AO 2013-44). The Court may recover any reasonable actual excess costs up to the greater of \$100,000 or the purchase price of the equipment or services that are the subject matter of, or directly related to, the cause of action, from the Contractor by:
 - (a) Deduction from an unpaid balance;
 - (b) Collection against any bid and/or performance bond, or;
 - (c) Any combination of the above or any other remedies as provided by law.

36. **Price Reduction.** A price reduction adjustment may be offered at any time during the term of this Contract and shall become effective upon notice.
37. **Statewide Purchasing.** If authorized in a particular solicitation, any Arizona court or any political subdivision on behalf of a court may procure material or services described in this Contract for use by Arizona courts or judicial branch units. Where so authorized, Contractor agrees to provide such materials or services to other courts at the Contract prices and under the Contract terms. Any attempt to represent any material and/or service as being under contract with the Court which is not a subject of or addition to this Contract is a violation of the Contract and the AOC Judicial Branch Procurement Rules (AO 2013-44). Any such action is subject to the legal and contractual remedies available to the Court inclusive of, but not limited to, Contract cancellation, suspension and/or debarment of the Contractor.
38. **Public Record.** This Contract is a public record, available for review, as required by state law.
40. **Criminal History Check.** The Court may require Contractor to provide identifying information for Contractor and any individuals working in judicial facilities or having access to judicial information for the purposes of conducting a criminal history records check for security purposes. Contractor agrees to cooperate with such requests and understands that the Court may terminate this Agreement if the results of the criminal history records check would disqualify the Contractor or individual and there is no acceptable alternative.
41. **Compliance with the Arizona Legal Workers Act, A.R.S. §41-4401.**
- A. Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with A.R.S. §23-214(A). (That subsection reads: "After December 31, 2007, every employer, after hiring an employee, shall verify the employment eligibility of the employee through the E-Verify program."). If this compliance requirement disqualifies any of Contractor's key personnel or individuals working at the direction of Contractor and no acceptable alternative is provided the Court may terminate this contract.
 - B. A breach of a warranty regarding compliance under subparagraph A shall be deemed a material breach of the contract that is subject to penalties up to and including termination of the contract.
 - C. The Court retains the legal right to audit and inspect the papers of any of Contractor's employee or subcontractor's employee who works on the contract to ensure that Contractor's personnel and any person working at the direction of Contractor is complying with the warranty under subparagraph A.
42. **Non-Discrimination.** The parties agree to comply with all applicable court, state and federal laws, rules, regulations and executive orders governing nondiscrimination, including the Americans with Disabilities Act, equal employment opportunity, immigration, and affirmative action. Contractor shall include a clause to this effect in all subcontracts related to this Contract.

44. **Notices.** Notice required pursuant to the terms of this Contract shall be in writing and shall be directed to the Court's contract administrator and Contractor's representative at the addresses specified immediately below or to such other persons or addresses as either party may designate to the other party by written notice. Notice shall be delivered in person or by certified mail, return receipt requested.

Notice to the Court:

Notice to the Contractor:

Leticia V. D'Amore
CASA of Arizona Program Manager
Arizona Supreme Court
Administrative Office of the Courts
1501 West Washington, Suite 119A
Phoenix, AZ 85007

ARIZONA SUPREME COURT
Administrative Office of the Courts

[CONTRACTOR'S NAME]

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Social Security or Federal
Employer Identification
No. _____