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July 16, 2013

Christine Ferraro Tallman
Clerk of the Board of Supervisors
1010 10th Street
Suite 6500
Modesto, CA 95354

BOARD OF SUPERVISORS
2013 JUL 16 P 1:38

Re: Bid Protest Appeal of Mistral Security/RFP # 13-14-CB

Dear Ms. Tallman:

The undersigned is counsel to Mistral Security, Inc. (“MSI”). MSI is appealing the General Services Agency’s (“GSA”) denial of the bid protest MSI filed against contract award under the referenced solicitation. On June 20, 2013, MSI filed a bid protest against the award of a contract resulting from RFP # 13-14-CB (the “RFP”). On July 2, 2013 GSA notified MSI that the protest had been denied. Per RFP section 3.15, this appeal is timely filed with the Board of Supervisors. The detailed grounds of appeal follow.

I. Background

The RFP was for the purchase of an explosive containment vessel for the Country’s Office of Emergency and Fire Department Division. The RFP provided a set of detailed technical requirements for the containment vessel. The RFP is attached to this appeal as Exhibit A to this appeal.

The RFP required offerors to submit what was essentially a three part proposal, consisting of 1) Financial Reports; 2) a Qualification Proposal (which included requirements for a Technical Proposal); and 3) a Pricing Proposal. Presumably, the offerors’ proposals would be evaluated by GSA on behalf of the County and award made to the offeror providing the best value to the County.

The RFP set out three main evaluation criteria. The first criteria addressed evaluation of Financial Reports. Those Reports were to be scored on a Pass/Fail Basis. Second, “Qualification Proposals” were to be evaluated on a point scale, with a maximum of 90 points. Qualification proposals were, in effect, the technical, schedule, and related aspects of each offeror’s proposal. Points were to be awarded on the following basis:

- Up to 40 points for Understanding of the RFP and Ability to Meet All Aspects of the RFP
- Up to 20 points for Proposed Containment Vessel Layout (Layout Meets RFP Requirements)
- Up to 10 points for Proposed Delivery/Setup Schedule
- Up to 20 points for Proposer’s Qualifications.

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Finally, Pricing was worth up to 10 points. The RFP stated that the award would be made to the offeror whose proposal best met the RFP criteria and provided the best value to the County.

After MSI was notified that it was not selected for award, it requested, and received, a debriefing. The debriefing indicated that MSI received the following technical evaluation scores from the four County proposal evaluators:

Vendor	Scorer #1	Scorer #2	Scorer #3	Scorer #4
Mistral Total	86	80	88	76
Phase II – proposer’s Understanding of RFP and Ability To Meet All Aspects of the RFP (40 pts. possible)	40	31	40	30
Phase II – Proposed Containment Vessel. Layout Meets RFP Requirements (20 pts. Possible)	18	20	20	20
Phase II – Proposed Delivery / Setup Schedule (10 pts. possible)	10	8	9	8
Phase II – Proposer’s Qualifications (20 pts. possible)	18	18	20	20

The Country had previously indicated to MSI that it had offered the lowest price of all offerors.

II. Bases of Protest and Appeal

In its protest (attached as Exhibit B), MSI alleged that GSA’s actual evaluation of its proposal deviated from the evaluation criteria set forth in the RFP. MSI further alleged that there were significant inconsistencies between the four evaluators, which indicated that the actual evaluations were arbitrary and capricious. (At the debriefing, GSA described those differences as being due to “operational reasons.” (Protest, page 4.)) Finally, MSI noted that it was the lowest-priced offeror, meaning that had the County evaluated the proposals correctly, MSI would have been found to provide the best value to the County. MSI’s protest set forth specific challenges to **how** GSA evaluated its proposal. **MSI did not challenge the RFP’s evaluation criteria.**

GSA denied MSI’s protest in a July 2, 2013 letter (attached as Exhibit C). In denying the protest, GSA did not address the merits of how it had evaluated MSI’s proposal. Rather, GSA essentially dismissed MSI’s protest as untimely, by incorrectly treating the protest as a complaint about the **format** of the evaluation criteria, rather than a complaint about **how** GSA **incorrectly applied** those criteria. GSA quoted from Section 3.15 of the RFP, which provided that questions related to “RFP processes and procedures, including the evaluation criteria...” should be protested prior to the

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bid opening date. GSA went on to hold that MSI's challenge to *how* the County evaluated MSI's proposed fell into the category of "RFP processes and procedures." In making this assertion, GSA confused challenges **to** the evaluation criteria with challenges **to how** the evaluation criteria were **applied** to actual proposals. However, MSI was challenging GSA's scoring, not the scoring system. It is impossible for an offeror to challenge the scoring of its proposal before bid opening---at that point, proposals have not yet been scored.

Because GSA incorrectly denied MSI's protest on procedural grounds, MSI in this appeal restates the challenges to GSA's proposal evaluation set forth in its original protest. Had GSA correctly evaluated the proposals, MSI would have been the highest rated offeror. In the interests of brevity, those grounds of protest are not repeated here; they are clearly set forth in MSI's protest (Exhibit B.)

Besides the grounds of protest set forth in MSI's original protest, GSA's denial letter revealed another, even more fundamental problem with GSA's conduct of this procurement. RFP Section 5.3.2 sets out the items that are to be included in the Qualification Proposal. Item 14 is a requirement for a detailed technical proposal. That requirement for a technical proposal, and the proposal evaluation methodology in the RFP, require that GSA actually evaluate the technical proposals. Otherwise, why would GSA require offerors to submit technical proposals at all? The explosion containment vessels being procured are not like spoons, or gravel, or light bulbs. They are complex devices, and lives depend on them working as designed. Common sense requires GSA to conduct a technical evaluation of the technical proposals.

However, GSA stated in its response to the protest **that it did not conduct a technical evaluation.** GSA Letter, Exhibit C, page 1, paragraph 4. It is difficult to see how GSA could have accurately evaluated and scored **any** offeror's proposal without conducting a technical evaluation of that proposal. This failure to evaluate the technical proposals, presumably of any offeror, means that GSA's conduct of the procurement is fundamentally flawed. After all, how can GSA award the contract to the offeror providing the best value to the County when GSA has not conducted a technical evaluation of the product it is buying?

Finally, GSA noted to MSI that it had the lowest evaluated cost of any offeror. When this low cost is combined with correctly evaluated technical and Qualification proposals, MSI is the offeror providing the best value to the County. As such, MSI should have been selected for award.

III. Requested Relief

MSI respectfully requests that the Board of Supervisors direct GSA to award the contract to MSI as the offeror providing the best value to the County; or in the alternative direct GSA to reevaluate MSI's proposal (and if necessary the proposals submitted by the other offerors) in accordance with the criteria set forth in the RFP and make an award based on those evaluations; or in the alternative direct GSA

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to reconsider MSI's protest on the merits, rather than dismissing it as in effect untimely for not being filed prior to bid opening.

Sincerely,

A handwritten signature in black ink, appearing to be 'W. Weisberg', with a long horizontal flourish extending to the right.

William Weisberg
Counsel to Mistral Security, Inc.

cc: Keith D. Boggs, Deputy Executive Officer, GSA Director/Purchasing Agent

Exhibit A to MSI Appeal

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: CEO Office of Emergency Services *G. H. INSUA* BOARD AGENDA # *B-4
Urgent Routine AGENDA DATE May 14, 2013
CEO Concurs with Recommendation YES NO
(Information Attached) 4/5 Vote Required YES NO

SUBJECT:
Approval to Issue a Request for Proposal (RFP) for a Total Containment Vessel for the Stanislaus County Sheriff's Bomb Team

STAFF RECOMMENDATIONS:
Authorize the General Services Agency (GSA) Purchasing Division to issue a Request for Proposal (RFP) for a total containment vessel for the Stanislaus County Sheriff's Bomb Team.

FISCAL IMPACT:
Funding in the amount of \$350,000 for the total containment device for the Sheriff's Bomb Team is contained within the Fiscal Year 2012 Homeland Security Grant. The Board of Supervisors approved acceptance of that grant on January 13, 2013. There is no impact to the General Fund associated with this purchase as all funding is allocated within the grant.

BOARD ACTION AS FOLLOWS: No. 2013-236
On motion of Supervisor Monteith, Seconded by Supervisor O'Brien
and approved by the following vote,
Ayes: Supervisors: O'Brien, Withrow, Monteith, De Martini and Chairman Chiesa
Noes: Supervisors: None
Excused or Absent: Supervisors: None
Abstaining: Supervisor: None

- 1) Approved as recommended
 - 2) Denied
 - 3) Approved as amended
 - 4) Other:
- MOTION:

ATTEST: Christine Ferraro
CHRISTINE FERRARO TALLMAN, Clerk File No.

Approval to Issue a Request for Proposal (RFP) for a Total Containment Vessel for the Stanislaus County Sheriff's Bomb Team
Page 2

DISCUSSION:

On January 15, 2013, the Board of Supervisors accepted the Fiscal Year 2012 grant from the California Emergency Management Agency to enhance local Homeland Security efforts. Within that grant \$350,000 was identified for the purchase of a total containment vessel for the Stanislaus County Sheriff's Bomb Team.

The bomb team currently has a top vent trailer built in the mid 1980s. This apparatus is the only one in Stanislaus County available for the detonation of explosive devices, and was the best available at the time of purchase. It does not actually contain the explosive wave or shrapnel, but directs it upwards, limiting exposure to the surrounding area. It is primarily designed for transport or as a last resort when handling explosive devices. The equipment goes out on every bomb threat response, but is not always utilized due to its method of detonation.

The new total containment vessel will allow up to ten pounds of high explosive to be detonated within the vessel while completely containing the explosive wave and shrapnel. It is also capable of containing chemical or biological hazards from devices and allows for neutralizing agents to be added into the vessel without exposure, providing a much safer operating environment for the bomb technicians and the public. The old vessel will be kept as a back-up to allow for additional response equipment if needed.

With Board approval, General Services Agency (GSA) will coordinate the issuance and award of the Request for Proposal for the total containment vessel. Staff from GSA, the Sheriff's Department and Modesto Regional Fire Authority / Office of Emergency Services will review proposals received.

The Department will return to the Board of Supervisors for approval to award of the RFP and with final contract recommendation.

POLICY ISSUES:

This grant supports the Board's priorities of A Safe Community, A Healthy Community and Effective Partnerships by increasing the response capabilities among first responders within Stanislaus County.

STAFFING IMPACT:

There is no staffing impact associated with this item.

CONTACT PERSON:

Gary Hinshaw, 209-552-3600



Request for Proposal

RFP #13-14-CB

**OFFICE OF EMERGENCY SERVICES (OES) DIVISION
CONTAINMENT VESSEL**

**Closing Date and Time:
June 7, 2013 @ 2:30 p.m.**

Proposers are required to submit an original and five (5) additional copies of their proposal response (including all required attachments) to the address below. Proposals shall clearly identify the project name, RFP number, and RFP response date on the outside of the envelope and be delivered in a sealed envelope. Failure to do so may cause the proposal to be rejected.

**Deliver to:
Stanislaus County
General Service Agency/Purchasing Division
1010 10th Street Suite #5400
Modesto, CA 95354
(209) 525-6319**

Any changes to this RFP are invalid unless specifically modified by Stanislaus County (County) and issued as a separate addendum document. Should there be any question as to changes to the content of this document, the County's copy shall prevail. All addenda and notices related to this solicitation will be posted by the County on Public Purchase. In the event this RFP is obtained through any means other than Public Purchase, the County will not be responsible for the completeness, accuracy or timeliness of the final RFP document.

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SECTION ONE—INTRODUCTION

1.1 Statement of Purpose

The County of Stanislaus (County) is seeking proposals from qualified and experienced organizations for the provision of a "Containment Vessel" on behalf of the County's Office of Emergency and Fire Department Division.

The selected proposer must meet all the requirements and expectations listed, as well as all the general contractual requirements mandated by the County. Any specifications and processes defined in this Request for Proposal (RFP) reflect the current environment, but in no way limit response to this solicitation. All proposers, however, must explain thoroughly, how their offering meets the minimum service and deliverable expectations specified in the RFP. Award shall be made to the proposer whose proposal is determined in writing to (a) best meet the criteria set forth herein and (b) provide the best value to the County.

This RFP contains the instructions governing the requirements for proposals including the format in which proposal information is to be submitted and the material to be included; the requirements that must be met to be eligible for consideration; and the responsibilities of the proposer before and after implementation.

1.2 Scope of Services

The County has identified the proposed Scope of Work included as Appendix A. This proposed Scope of Work will be used as the basis for negotiating the final Scope of Work for inclusion in the resultant agreement. The RFP contains the minimum list of services and deliverables the selected proposer is expected to provide the County.

1.3 Contract Duration

The County intends to enter into a contract with an effective period starting by July 1, 2013 and ending on/or before May 28, 2014 with no allowable extensions granted.

1.4 Other Government/Publicly Funded Agencies

If mutually agreeable to all parties, the issuance of any resultant contract and/or purchase order referencing the scope of services and modified by mutual agreement between all parties may be extended to other government or publicly funded agencies. All terms and conditions as specified in the agreement shall apply.

1.5 Proposal Deadline

Original proposals shall be submitted no later than the Proposal Deadline time and date detailed in the Section 2, RFP Schedule of Events. Proposals shall clearly identify the Project Name, RFP Number, and RFP response date on the outside of the envelope and be delivered in a sealed envelope. Failure to do so will cause the proposal to be rejected. It is the County's recommendation that the delivery method chosen require a receipt confirmation. Proposers shall respond to the RFP and any exhibits, attachments, or amendments. A proposer's failure to submit a proposal as required before the deadline shall cause the proposal to be disqualified.

Proposers assume the risk of the method of dispatch chosen. The County assumes no responsibility for delays caused by any delivery service. Postmarking by the due date shall not substitute for actual proposal receipt by the County. Late proposals shall not be accepted nor shall additional time be granted to any potential proposer.

Proposals may not be delivered orally, by facsimile transmission, or by other telecommunication or electronic means unless specifically requested by the Purchasing Division of Stanislaus County General Services Agency (Purchasing).

1.6 Nondiscrimination

No person shall be excluded from participation in, denied benefits of, discriminated against in the admission or access to, or discriminated against in treatment or employment in the County's contracted programs or activities on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or California State Constitutional or statutory law. Additionally, no person shall be excluded from participation in, denied benefits of, or otherwise subjected to discrimination in the performance of contracts with the County or in the employment practices of the County's proposers. Accordingly, all proposers entering into contracts with the County shall, upon request, be required to show proof of such nondiscrimination and to post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

1.7 Assistance to Proposers with a Disability

Proposers with a disability may receive accommodation regarding the means of communicating this RFP and participating in this procurement process. Proposers with a disability should contact the RFP Point of Contact identified in Section 3.1 to request reasonable accommodation no later than the deadline for accommodation requests detailed in the Section 2, RFP Schedule of Events.

2.3 Pre-Conference

A Pre-Conference for all potential proposers is scheduled at the time and date set forth below and in the preceding Section 2.1, Schedule of Events.

PRE-CONFERENCE LOCATION	
Stanislaus County	N/A
Date:	Time:
Address:	City:
Conference Room: N/A	Phone:

The purpose of the Pre-Conference is to discuss the work to be performed with the prospective proposers and allow for questions concerning the RFP. Proposers are strongly encouraged to (a) read through this RFP document in its entirety prior to the scheduled Pre-Conference and (b) bring the RFP document in printed format to the scheduled Pre-Conference. The Pre-Conference serves solely to clarify the contents of the RFP and is not intended to provide technical assistance to proposers or to add information to this RFP. The purpose is to answer questions; respond to previously submitted written questions; and clarify any ambiguities. Such clarification may aid potential proposers in deciding whether to submit proposals.

The response to any question that is given orally at the Pre-Conference is to be considered tentative and nonbinding on the County. After the Pre-Conference, the official response to all questions shall be published in writing by issuing an addendum. This is to ensure accurate, consistent responses to all proposers.

SECTION THREE—GENERAL REQUIREMENTS AND INFORMATION

3.1 Proposal Inquiries

Questions, in written form, regarding this proposal should be referred to:

RFP POINT OF CONTACT

Stanislaus County

1010 10th St., Ste. 5400

Attention: Cathy Blair

E-mail: blairc@stancounty.com

General Services Agency/Purchasing Division

Modesto, CA 95354-0859

Phone: 209-525-6319

Fax: 209-525-7787

All inquiries are to be submitted at least ten (10) working business days prior to the proposal closing date. Any responses by the County will be made in written form. Any change in requirements will be done in the form of a written addendum. The receipt of any resulting addendum must be acknowledged in accordance with the directions on the addendum. Oral explanations or instructions given before the award of the contract will not be binding.

Proposers shall direct any questions or requests for clarification in writing to the RFP Point of Contact (or designee) named above. Proposers seeking information related to this RFP, including the scope of services described herein, obtained from sources other than the RFP Point of Contact (or designee) do so at their own risk. The County cannot be responsible for the completeness, accuracy or timeliness of such information.

3.2 Proposal Format

Proposals must be submitted in the format identified in Section Five—Proposal Submittal Process. All items shall be completed and the signatures of all persons signing shall be written in longhand. Purchasing may not consider proposals not submitted in the format specified.

Proposals shall clearly identify the project name, RFP number, and RFP response date on the outside of the envelope and be delivered in a sealed envelope no later than 2:30 p.m., to:

Stanislaus County
General Services Agency Purchasing Division
1010 10th Street, Suite 5400
Modesto, CA 95354-0859

3.3 Proposals Received Late

Proposals received after the time specified will be returned unopened to the respective proposer and will not be considered for evaluation. Proposals will be opened in public at 2:30 p.m. on said date at the above location.

3.4 Alternate Proposals

Alternate proposals will be considered unless otherwise stipulated.

3.5 Proposal Errors

Mistakes in a proposer's submittal must be corrected and the correction inserted; the person signing the proposal must initial the correction in ink. The County reserves the right to waive any informalities or minor irregularities in connection with proposals received.

3.6 Default or Failure to Perform

The principal protection of the County's interests in the case of default or other failure to perform shall be by means of bonds. Below are descriptions of the types of bonds that may be required:

3.6.1 Proposal Security

If required, proposal security shall take the form of a bond, a cashier check, or a certified check, representing the proposer's firm commitment to stand behind the RFP price. The proposer's bond shall be prepared and guaranteed by a California admitted corporate surety made payable to the "County of Stanislaus" or the certified check shall be issued and certified by a responsible bank or banker. As a general rule, the proposer's security is in the amount of ten percent (10%). See Page 27.

3.6.2 Performance Bonds

A performance bond may be required to secure fulfillment of all of the proposer's obligations under the contract. If required, the successful proposer shall file with the County a surety bond satisfactory to the County in the amounts noted prior to the execution of the contract or awarding of an RFP by the County. Bonds shall be duly executed by a responsible corporate surety authorized to issue such bonds in California and secured through an authorized agent with an office in California. Proposer shall pay all bond premiums, costs and incidentals. See Page 27.

3.6.3 Payment Bonds

If required to assure the proposer's full discharge of its obligations to subproposer, suppliers, and other labor used on the project, the successful proposer shall file with the County a surety bond issued by a California admitted surety in the amounts noted. See Page 27.

3.7 County Code

All provisions of the County Code are applicable to any proposal submitted or contract awarded pursuant thereto. Note: Stanislaus County enacted a Local Vendor Preference in 2008. Please see the Local Vendor Preference Notice attached hereto in Section 8.

3.8 Cash Discounts

Cash discounts offered for payment in less than twenty (20) days will not be considered as a basis of award. Cash discounts offered for payment in twenty (20) or more days will be subtracted from the total Proposal price for the purposes of the Proposal evaluation. Any cash discount offered by the successful proposer will be accepted by the County, whether or not it was considered as a basis of award. All cash discounts, if taken, shall be computed from the date of delivery or completion and acceptance of material, or from date of receipt of invoice, whichever is latest.

3.9 Award

Within thirty (30) days after the proposal opening, a contract may be awarded by the County to the proposer whose proposal is determined in writing to be the best value to the County, taking into consideration price and adherence to the specifications set forth herein. The time for awarding a contract may be extended at the sole discretion of the County, if required to evaluate proposals or for such other purposes as the County may determine.

3.10 Right of Rejection

The County reserves the right to reject all proposals, as it may deem proper in its absolute discretion.

3.11 Form Agreement/Exceptions and Alternatives

The Sample Agreement attached to this Request for Proposal ("RFP") contains terms and conditions that will become binding upon the successful proposer upon execution of the contract. This Sample Agreement is attached solely for the purpose of informing proposers of the fixed, predetermined, standard contract provisions with which the successful proposer will be required to comply.

If the proposer suggests alternatives or states exceptions to any term or condition in the Agreement, or to any provision or requirement of the RFP, such alternative or exception shall be clearly stated and identified in the submitted proposal. Any alternatives or stated exceptions proposed must satisfy all minimum qualifications specified in this RFP. The successful proposer will otherwise be expected to sign the agreement upon award of the contract. The County expressly reserves the right, in its sole discretion, to (1) reject a proposal containing any exception or alternatives as non-conforming, or (2) accept any proposal alternative or exception and to award a contract based thereon if determined to be in the best interest of the County.

3.12 Nondiscrimination

Stanislaus County does not unlawfully discriminate in violation of any federal, state or local law, rule or regulation because of race, religion, color, national origin, ancestry, physical or mental handicap, medical condition, marital status, age, political affiliation, sex or sexual orientation.

3.13 Disqualification

Any of the following may be considered cause to disqualify a proposer without further consideration:

1. Evidence of collusion among proposers;
2. Any attempt to improperly influence any member of the Evaluation Committee;
3. A proposer's default in any operation of a contract or agreement which resulted in termination of that agreement; and/or
4. Existence of any lawsuit, unresolved contractual claim, or dispute between proposer and the County.

3.14 Failure to Comply

The County cannot accept any proposal that does not comply with all of the above stated requirements.

3.15 Protest and Appeal Procedures

3.15.1 General

Proposers wishing to protest or appeal a procurement or contracting decision by Purchasing must follow the procedures provided by this section. Protests or appeals that are not submitted in accordance with these procedures will not be reviewed.

3.15.2 Definitions

For the purposes of this procedure:

1. "Board of Supervisors" means the Stanislaus County Board of Supervisors.
2. "Days" means working days of the County of Stanislaus.
3. "Filing Date" or "Submission Date" means the date of receipt by the Purchasing Division of the General Services Agency of the County of Stanislaus.
4. "Interested Party" means an actual or prospective proposer or vendor.
5. "Proposal" includes the term "offer" as used in the context of formal, informal, or negotiated procurements.
6. "Purchasing Agent" means the Stanislaus County Purchasing Agent.

3.15.3 Protest Procedure

1. Any Interested Party may file a written protest with the Purchasing Agent not later than five (5) days after date of mailing a Notice of Intended Award or Notice of Non-Award.
2. The protest shall be delivered by a courier or sent by registered mail to the Purchasing Agent.
3. The protest filed with the Purchasing Agent shall:
 - a. Include the name, address, and business telephone number of the protestor.
 - b. Identify the project under protest by name, RFP number, and RFP date.
 - c. Contain a concise statement of the grounds for protest; provided, however, RFP processes and procedures, including evaluation criteria, shall not be proper grounds for protest. Concerns related to such issues should be raised and addressed, if at all, prior to the question deadline to allow adjustments before evaluation of bids or proposals.
 - d. Provide all supporting documentation, if any. Documentation submitted after filing the protest will not be considered during review of the protest or during any appeal.

3.15.4 Protest Review

1. Upon receipt of a written protest, the Purchasing Agent shall review all the submitted materials and shall create and retain a written record of the review. The Purchasing Agent shall respond in writing at least generally to each material issue raised in the protest not later than ten (10) days after receipt of the written protest.
2. If the protested procurement involves federal funds, interested parties may have the right to appeal to the appropriate federal agency. When applicable, the Purchasing Agent shall give notice to the interested party that he or she has the right to such an appeal and shall identify the federal agency by name and address. When applicable, an appeal hereunder shall be filed with the appropriate agency within five (5) working days of the dispatch of rejection notices to the interested party(ies).

3. Purchasing Agent decisions may be appealed in writing to the Board of Supervisors not later than ten (10) days after date the Purchasing Agent's decision is mailed to the protesting party. Such written appeal shall be delivered by a courier or sent by registered mail to the Board of Supervisors, with a copy to the Purchasing Agent. The Board of Supervisors shall review and decide the appeal based on the grounds and documentation set forth in the original protest to the Purchasing Agent. The appealing party may be represented by legal counsel if desired. Each party shall bear its own costs and expenses involved in the protest and appeal process, including any subsequent litigation. The decision of the Board of Supervisors shall be final unless the protested procurements are subject to the federal appeal process set forth in paragraph 2 above, in which case the decision of the applicable federal agency shall be final.

3.16 Contract Debarment

1. The regulations guiding Contractor Debarment are found in the Federal Acquisition Regulation (FAR), subpart 9.4 – Debarment, Suspension, and Ineligibility.
2. When a procurement or contract involves the use of Federal Funding, the Purchasing Agent (or designee) is required to determine if the contractor or subcontractor has been debarred, suspended, or proposed for debarment.
3. The Federal General Services Administration operates the web-based Excluded Parties List System (EPLS), which names all contractors debarred, suspended, proposed for debarment, declared ineligible, or excluded or disqualified under the non-procurement common rule (FAR 9.404 b 1).
4. Contractors debarred, suspended, or proposed for debarment are excluded from receiving contracts. Purchasing shall not solicit offers from, award contracts to, or consent to subcontracts with these contractors, unless the Purchasing Agent determines that there is a compelling reason for such action. Contractors debarred, suspended, or proposed for debarment are also excluded from conducting business with the County as agents or representatives of other contractors (FAR 9.405 a).
5. Contractors included in the EPLS as having been declared ineligible on the basis of statutory or other regulatory procedures are excluded from receiving contracts, and if applicable, subcontracts, under the conditions and for the period set forth in the statute or regulation. Purchasing shall not solicit offers from, award contracts to, or consent to subcontracts with these contractors under those conditions and for that time period (FAR 9.405 b).
6. Contractors debarred, suspended, or proposed for debarment are excluded from acting as individual sureties (FAR 9.405 c).
7. After the opening of bids or receipt of proposals, the Purchasing Agent (or designee) shall review the EPLS. Bids received from any listed contractor in response to an invitation for bid shall be rejected unless the Purchasing Agent determines there is a compelling reason to consider the bid. Proposals, quotations, or offers received from any listed contractor shall not be evaluated for award or included in the competitive range, nor shall discussions be conducted with a listed offeror during a period of ineligibility, unless the Purchasing Agent determines that there is a compelling reason to do so. If the period of ineligibility expires or is terminated prior to award, the Purchasing Agent may, but is not required to, consider such proposals, quotations, or offers. Immediately prior to award, the Purchasing Agent (or designee) shall again review the EPLS to ensure that no award is made to a listed contractor (FAR 9.405 d 1-4).

3.17 Federal E-Verify Contracting Regulations

1. As of September 8, 2009, the U.S. Citizenship and Immigration Services' has required federal contractors and subcontractors to begin using the E-Verify system to verify their employees' eligibility to legally work in the United States. E-Verify is an internet based online system operated jointly by the Department of Homeland Security (DHS) and the

Social Security Administration (SSA) that confirms the identify information provided on the applicant or employee's I-9 form.

2. The new regulation only affects federal contractors who are awarded a new contract after September 8, 2009 that includes the E-Verify Clause. Federal contractors agree, through language included in their federal contracts, to use E-Verify to check the eligibility of employees hired and current employees who perform contract services during the contract term. The same clause will also be required in subcontracts over \$3,000 for less than \$100,000 and those that are for commercially available off-the-shelf items.
3. Vendors awarded a federal contract that includes the E-Verify clause will be required to enroll in E-Verify within thirty (30) days from the contract award date. This process will require vendor's Human Resource Department to use the E-Verify system to verify the employment eligibility of all new hires and any existing employees directly working on the federal contracts.
4. Failure to adhere to this new standard may jeopardize vendor's Federal contracting status. Further information and instructions are available at:
https://www.sam.gov/portal/public/SAM/?portal:componentid=fb67166e-75d6-44cc-b77f-151a6ad4fa34&portal:type=action&interactionstate=JBPNS_r00ABXc0ABBfanNmQnJpZGdlVmlld0lkAAAAAQATL2pzZi9mdW5jdGlvbmFsLmpzcAAHX19FT0ZfXw** .

SECTION FOUR—TERMS AND CONDITIONS

4.1 Cost of Preparation of Proposal

The County shall not pay costs incurred in the proposal preparation, printing, or demonstration process. All such costs shall be borne by the proposer.

4.2 Rights to Pertinent Materials

All responses, inquiries, and correspondence relating to the Request For Proposal and all reports, charts, coverage maps, displays, schedules, exhibits, and other documentation produced by the proposer that are submitted as part of the proposal shall become the property of the County after the proposal submission deadline.

Proposers shall be responsible for identifying information in their responses deemed to be confidential under the California Public Records Act. To the extent that the County agrees with that designation, such information shall be held in confidence whenever possible. All other information shall be considered public after the award of the RFP.

4.3 Public Records Act

All proposals become public information no later than after the award of the RFP, with the exception of those portions of a proposal that are identified at the time of the submittal by the proposer as "Confidential" or "Proprietary" and which are reasonably deemed by the County as not being public documents that must be disclosed under applicable sections of the California Public Records Act and other appropriate statutes and regulations.

4.4 Modification of Scope of Work

The Scope of Work may be amended to meet available funding or to best meet the needs of the County. In the event that any additional services are required as identified herein, the County reserves the right to add such services by amending the contract.

4.5 Right of County to Reject Proposals

The County reserves the right to reject any and all proposals or any part of the proposals, to waive minor defects or technicalities, or to solicit new proposals on the same project or on a modified project which may include portions of the originally proposed project as the County may deem necessary.

All proposals received after the time specified in this Notice will not be considered and will be returned unopened.

4.6 Examination of Proposal Documents

Proposers shall carefully examine the specification and satisfy themselves as to their sufficiency, and shall not at any time after submission of the proposal, dispute or complain of such Specifications and the directions explaining or interpreting them. Any questions or concerns that arise shall be submitted in writing to the contact person identified in Section 3.1 prior to the question deadline.

Should a proposer find discrepancies in, or omissions from, the specifications, or should the undersigned be in doubt as to their meaning, the undersigned shall at once notify Purchasing. Notification is to be in written form and must be submitted at least ten (10) days prior to the proposal closing date. Any interpretations by the County will be made in the form of a written addendum. Any change in requirements will also be done in the

form of a written addendum. The receipt of any resulting amendment must be acknowledged in accordance with the directions on the amendment. **Oral explanations or instructions given before the award of the contract will not be binding.**

4.7 Insurance Provisions

The "Insurance Provisions" contained in Section 6 of the Sample Agreement are hereby made a part of this RFP and any resultant contract. The proposer shall acknowledge in their proposal responses their ability to meet the below insurance requirements and the requirements contained in the Sample Agreement. All exceptions to the insurance requirements must be communicated in writing and included with the proposal response. The proposer awarded the Agreement shall provide the County with a Certificate of Insurance and endorsements meeting and/or containing the following:

1. Policy limits of insurance as required in the Sample Agreement Page 23;
2. Deductibles shall be declared;
3. NAIC# for insurers shall be provided on the certificate;
4. 30 - day notice of cancellation;
5. Certificate Holder is "Stanislaus County;"
6. Endorsement naming "Stanislaus County, its officers, directors, agents, employees, and volunteers " as additional insured (GL and Auto);
7. Waiver of subrogation (Worker's Compensation Page 25 of the Sample Agreement);
8. Carrier admitted/licensed to issue insurance in California; and
9. Best's rating of no less than A-, and Financial Size Category of at least VII.

An "Insurance Checklist" is included in this RFP package on Page 38.

4.8 Sample Agreement

A Sample Agreement is attached solely for the purpose of informing the proposer of the fixed, predetermined, standard contract provisions with which they will be required to comply and, with the exception of the insurance requirements set forth therein and described in detail in section 4.7 above, do not constitute requirements of this RFP. These provisions are subject to revision by the County at any time prior to the signing of the agreement.

The submission of a proposal shall be considered an agreement to all the terms, conditions (including insurance requirements) and specifications set forth in this RFP and in the various proposal documents, unless specifically noted otherwise in the proposal.

SECTION FIVE—PROPOSAL SUBMITTAL PROCESS

5.1 Submittal Documents

Proposers shall submit the following RFP attachments as part of the Qualification Proposal described below:

- a. Signed Proposal Cover Page;
- b. Local Vendor Preference;
- c. RFP package completed and signed;
- d. W9 form Request for Taxpayer Identification Number and Certification;
- e. Exceptions to the terms and conditions of this RFP;
- f. Exception to the Sample Agreement;
- g. Insurance Checklist;
- h. Signed Non-Collusion Affidavit;
- i. Bond Requirements;
- j. Response Clarification Addendum; and
- k. Pricing.

Proposals shall contain all of the elements set forth in Section 5.2 below and shall be submitted in three (3) separately sealed envelopes, each clearly identifying the project name, number and closing date. The envelopes shall be marked as follows:

1. One marked "FINANCIAL REPORTS" consisting of those items set forth in section 5.3.1 below. Note that only 1 set of the Financial Reports is required.
2. One marked "QUALIFICATION PROPOSAL" which shall consist of items a – k above as well as those items requested in Section 5.3.2 below. NOTE: One (1) original and five (5) copies of the Qualification Proposal are required.
3. One marked "PRICING PROPOSAL" which consist of those items set forth in Section 5.3.3 below. Note that 1 original and 5 copies of the Pricing Proposal is required.

5.2 Proposal Submittal

Proposals shall be submitted as instructed on the cover page of this RFP.

Proposers are encouraged to use recycled products and sustainable practices whenever possible in preparing their response to this RFP, including using post-consumer recycled content paper and packaging products and copying them on both sides of the paper.

5.3 Proposal Elements

The "PROPOSAL" response shall be divided into three parts:

- Part One—Financial Reports**
- Part Two—Qualification Proposal**
- Part Three—Pricing Proposal**

Components of each part shall be preceded by a 8 ½" by 11" tab divider, with each component clearly labeled corresponding to the numbered item.

Below are the detailed elements of part of the proposal. Proposers shall address these elements as indicated:

5.3.1 Part One—Financial Reports

Proposers are required to submit only one copy of Financial Reports in original response only which includes detailed information about the proposer's financial condition, which includes the following information:

1. Provide last three (3) years Balance Sheet, Income Statement, and Interim if available, and all Notes to Financial Statements and Financial Disclosures;
2. Sufficient financial information to establish the approximate net worth and liquid assets available to the development team to complete the project. Proposer shall provide supporting documentation for the above financial information. Be advised that the analysis of this statement will include a comparison of stated available assets and the estimated equity required for the development. Proposers that are companies or entities not publicly traded must submit audited financial statements. This information shall be submitted in a separately identified envelope marked 'Proprietary and Confidential' and will be returned to all unsuccessful Proposers when the award is made by the County;
3. Identify and describe pending judgments, pending litigation, and bankruptcies (including pertinent dates), and their effect on the Proposer's financial position;
4. Proof of insurance satisfactory and acceptable to the County as evidence that insurance meets the requirements set forth in Section 6, Insurance, of the Sample Agreement included in the RFP package.
5. List of bonding and insurance companies, including addresses, telephone numbers, and contacts.
6. Identify what percent of proposer's annual revenue this contract shall represent.

Please note that Proposers may not submit income tax returns in lieu of the above requested items.

5.3.2 Part Two—Qualification Proposal

Each part of the Qualification Proposal described below shall be preceded by a 8 ½" by 11" tab divider, with each part clearly labeled. Proposal documents not identified above shall be included in a section labeled "Other RFP documents." This section shall include responses to the following:

1. A complete corporate profile of proposer outlining proposer's background, philosophy and experience and other pertinent information about proposer's ability to perform the work.
2. Evidence of proposer's authority to conduct business within the state of California.
3. Number of years in business as a (Type of Proposer i.e. Rate Review) Consulting firm.
4. Brief history of the firm, including ownership structure, key principals and current organization structure.
5. Indicate the primary contacts (and management hierarchy) that will be available for all aspects of the work. Include contacts for customer service and senior management.
6. Identify the staff to be assigned to this project and their relevant experience and qualifications to this project. Attach resumes of individuals who will be assigned to this project. Include certifications and licenses of individuals. List the number of full-time employees and the number of part-time employees performing the (Type of Services Proposer will be performing i.e. Rate Review) services as of the date of submission of proposer's response to this Request for Proposal.

7. Submit a detailed description of expected sub-proposer(s) who might be involved including a general overview of the firm and brief resumes of key personnel.
8. Employee background check procedures; security procedures.
9. List of references of firms for whom services have been provided by proposer. List names, addresses, telephone numbers and contact persons.
10. List of contracts that have not been renewed or terminated in the past three (3) years. List names, addresses, telephone numbers and contact persons.
11. Submit a sample of previous work showing a product representative of the proposer's expertise in the area of interest. Include detailed information about the size and scope of proposer's current contracts.
12. Provide a description of proposer's understanding of the specific project goals and requirements with highlights of those that are particularly significant to the project and the delivery of services.
13. Approach and Understanding of Requirements.
14. Submit a technical proposal describing the detailed scope of work including specifying tasks (and firms if preparation of the analysis involves other firms) that will be completed to accomplish the Scope of Work outlined in this RFP. This shall include:
 - a. A statement of approach to the project;
 - b. A detailed work plan;
 - c. A detailed timeline;
 - d. Specific staffing procedures;
 - e. A detailed resource plan; and
 - f. A discussion which includes the focus on issues concerning the Companies, the County, and cooperating jurisdictions.
15. Proposers shall identify what coordination and meetings the County will be required to provide.

5.3.3 Part Three—Pricing Proposal

1. A separate sealed document that details the total cost in U.S. dollars to the County for the proposal being submitted.
2. Proposers shall provide total project cost and a pricing methodology complete with a time allotment for each task in the approach proposed to carry out the work, and the schedule of fees for staff to be assigned to the project. Proposer shall list each project team member, assigned number of hours for each task (if applicable), and hourly billing rate for each project team member. The pricing proposal shall also identify the tasks and subtasks assigned to the project team members. A not-to-exceed total project cost shall include charges for overhead, administrative and materials costs and charges for any subproposers if the use of subproposers is specified in the proposal. (See "Submission of Proposals", for additional instructions.) This shall form the basis for payments to the successful proposer, as well as for adjustments to the value of the Agreement in the event the scope of work varies from that proposed.
3. The proposer shall provide pricing for a period of time as described in Section I, Item 1.3; Contract Duration. Should the County and the successful proposer mutually agree to renew the Agreement, the pricing provided by the proposer in its RFP response for the subsequent years shall be utilized.
4. ALL cost incurred and billed to the County, including labor, materials, overhead and profit shall be included within the Proposers Pricing Proposal Form. The cost for insurance and bonding shall be separately identified on the Pricing Proposal Form.

5.4 Pricing Evaluation

In determining the amount proposed by each proposer, the County shall disregard the mathematical errors in addition, subtraction, multiplication and division that appear obvious on the face of the proposal. When an item price is required to be set forth in the proposal and the total for the item set forth separately does not agree with a figure which is derived by multiplying the item price times the County's estimate of the quantity of work to be performed for said item, the item price shall prevail over the sum set forth as the total for the item unless, in the sole discretion of the County, such a procedure would be inconsistent with the policy of the proposal procedure. The total paid for each such item of work shall be based upon the item price and not the total price.

Should the proposal contain only a total price for the item and the item price is omitted, the County shall determine the item price by estimated quantities of work to be performed as items of work. If the proposal contains neither the item price nor the total price for the item, then it shall be deemed incomplete and the proposal shall be disregarded.

SECTION SIX—EVALUATION CRITERIA AND PROPOSER SELECTION

6.1 Evaluation of Proposals

This section identifies the selection process, evaluation criteria, and steps that shall be used in evaluating Proposer responses. Award shall be made to the proposer whose proposal is determined in writing to (a) best meet the criteria set forth herein and (b) provide the best value to the County. The following describes the evaluation process and associated components.

6.2 Selection Process

The County shall name, for the purpose of evaluating the proposals received in response to this RFP, establish an Evaluation Committee (EC). The EC shall be composed of representatives from the County and, at the County's sole qualified representatives from other agencies or entities.

Proposal documentation requirements set forth in this RFP are designed to provide guidance to the proposer concerning the type of information that shall be used by the EC. Proposers shall be prepared to respond to requests by the EC for oral presentations, facility surveys, and other items deemed necessary to assist in the detailed evaluation process. Proposers are advised that the County, at its option, may award this proposal on the basis of the initial proposals.

6.3 Evaluation Phases

It is anticipated that the following steps will be performed by the EC in evaluating proposals; however, a strict observance to the Evaluation Steps is not required. A description of each evaluation step is provided.

- Phase I Evaluation of Financial Reports
- Phase II Evaluation of Qualification Proposals,
- Phase III Evaluation of Pricing Proposals

6.3.1 Phase I Evaluation of Financial Reports

Phase I is a pass/fail evaluation for submission completeness and financial review. Purchasing will conduct a pass/fail analysis of (a) each submitted Proposal for completeness and (b) the financial stability of each proposer. During Phase I, the Pricing Proposals will remain unopened and be retained by Purchasing. Upon completion of its analysis, Purchasing, will forward those Qualification Proposals that have passed Phase I to the EC). The Pricing Proposals will remain with Purchasing until the EC has completed Phase II, the evaluation of the Qualification Proposals.

6.3.2 Phase Two Evaluation of Qualification Proposals

In Phase II, the EC will review and evaluate the Qualification Proposals of the proposers, and each proposer will be given a score. During this phase reference checks will be performed, and proposers may be interviewed. Should the EC exercise its option to interview, the proposers will be assigned a preliminary Phase II score and only those receiving the highest preliminary scores shall be placed on an "Interview List." Those on the Interview List shall be requested to make a formal presentation of their proposals to the EC. On the basis of the oral presentation and the written proposal, the EC shall assign a final Phase II score for each proposer and make a final ranking of potential proposers.

6.3.3 Phase III Evaluation of Pricing Proposals

In Phase III, Purchasing shall forward all RFP Pricing/Fee Schedules to the EC for evaluation. The EC shall review the RFP Pricing/Fee Schedules and select/recommend the proposal which is determined in writing to (a) best meet the criteria set forth herein and (b) provide the best value to the County.

The EC shall be responsible for performing the evaluations of each proposal, including an evaluation of the proposed cost. Each member of the EC shall rate the proposals separately unless the proposals are technical in nature. In such cases a subject matter expert may be called upon to score that section of the RFP for all proposals. The scores of each member of the EC shall then be averaged to provide a total score for each of the proposers. The proposals shall be evaluated on the following categories and the maximum weight possible for each category is listed below:

EVALUATION CATEGORIES—THREE PHASES	MAXIMUM POINTS
Phase I – Review and Evaluate Financials	Pass/Fail
Notify Proposers Proceeding onto Phase II	N/A
PHASE II	MAXIMUM POINTS
Phase II – Proposer’s Understanding of RFP and Ability To Meet All Aspects of the RFP	40
Phase II – Proposed Containment Vessel. Layout Meets RFP Requirements	20
Phase II – Proposed Delivery / Setup Schedule	10
Phase II – Proposer’s Qualifications	20
Sub Total for Proposal Points:	90
PHASE III	MAXIMUM POINTS
Phase III – Pricing	10
TOTAL POSSIBLE WEIGHT OR POINTS:	100

6.4 Award

Award will be made to the proposer whose proposal best meets the criteria set forth herein and provides the best value to the County, with price and all other factors considered.

SECTION SEVEN—STANDARD CONTRACT INFORMATION

7.1 Contract Approval

The RFP and the proposer selection processes do not obligate the County and do not create rights, interests, or claims of entitlement in the apparent best evaluated proposer. Contract award and County obligations pursuant thereto shall commence only after the contract is signed by the proposer, the County and by all other County officials as required by County ordinances and regulations to establish a legally binding contract.

7.2 Contract Payments

Contract payments shall be made in accordance with the payment terms and conditions set forth in the final contract. No payment shall be made until the contract is fully executed and approved as required by County ordinances and regulations. Under no conditions shall the County be liable for payment of any type associated with the contract or responsible for any work done by the proposer regardless of whether work was done in good faith and upon verbal direction to proceed with the delivery of services, if such direction occurs before (a) the contract start date specified by the contract or (b) contract approval by County officials as required by applicable statutes and rules of the County of Stanislaus.

7.3 RFP and Proposal Incorporated into Final Contract

This RFP and the successful proposal shall be incorporated into the final contract by reference.

7.4 Contract Monitoring

The successful proposer shall be responsible for the completion of all work set out in the contract. All work is subject to inspection, evaluation, and acceptance by the County's Office of Emergency Division. The County may employ all reasonable means to ensure that the work is progressing and being performed in compliance with the contract. At reasonable times, the County may inspect those areas of the successful proposer's place of business that are related to the performance of the contract. If the County requires such an inspection, the successful proposer shall provide reasonable access and assistance.

7.5 Contract Amendment

During the course of this contract, the County may request the successful proposer to perform additional work for which the successful proposer would be compensated. Such work shall be within the general scope of this RFP. In such instances, the County shall provide a written description of the additional work, and the successful proposer shall submit a time schedule for accomplishing the additional work and a price for the additional work based on the rates included in the successful proposer's response to this RFP. If the County and the successful proposer reach an agreement regarding the work and associated compensation, said agreement shall become effective by means of a contract amendment. Any such amendment requiring additional work must be mutually agreed upon by the parties and signed by the successful proposer and the head of the procuring County agency and must be approved by other County officials as required by County laws and regulations. The successful proposer shall not commence additional work until the County has issued a written contract amendment and secured all required approvals.



GSA PURCHASING AGENT
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**AGREEMENT
FOR
INDEPENDENT CONTRACTOR SERVICES**
Version 2/17/06

This Agreement For Independent Contractor Services (the "Agreement") is made and entered into by and between the County of Stanislaus ("County") and _____ ("Contractor") on _____.

Recitals

WHEREAS, the County has a need for services involving _____; and

WHEREAS, the Contractor is specially trained, experienced and competent to perform and has agreed to provide such services;

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

Terms and Conditions

1. Scope of Work

- 1.1 The Contractor shall furnish to the County upon execution of this Agreement or receipt of the County's written authorization to proceed, those services and work set forth in **Exhibit A**, attached hereto and, by this reference, made a part hereof.
- 1.2 All documents, drawings and written work product prepared or produced by the Contractor under this Agreement, including without limitation electronic data files, are the property of the Contractor; provided, however, the County shall have the right to reproduce, publish and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Contractor may copyright the same, except that, as to any work which is copyrighted by the Contractor, the County reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so.
- 1.3 Services and work provided by the Contractor at the County's request under this Agreement will be performed in a timely manner consistent with the requirements and standards established by applicable federal, state and County laws, ordinances, regulations and resolutions, and in accordance with a schedule of work set forth in Exhibit A. If there is no schedule, the hours and times for completion of said services and work are to be set by the Contractor; provided, however, that such schedule is subject to review by and concurrence of the County.

2. **Consideration**

- 2.1 County shall pay Contractor as set forth in Exhibit A and **Exhibit B**.
- 2.2 Except as expressly provided in Exhibit A and Exhibit B of this Agreement, Contractor shall not be entitled to nor receive from County any additional consideration, compensation, salary, wages or other type of remuneration for services rendered under this Agreement. Specifically, Contractor shall not be entitled by virtue of this Agreement to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays or other paid leaves of absence of any type or kind whatsoever.
- 2.3 County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to Contractor under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractors taxes or assessments.
- 2.4 Pursuant to Penal Code section 484b and to Business and Professions Code section 7108.5, the Contractor must apply all funds and progress payments received by the Contractor from the County for payment of services, labor, materials or equipment to pay for such services, labor, materials or equipment. Pursuant to Civil Code section 1479, the Contractor shall direct or otherwise manifest the Contractors intention and desire that payments made by the Contractor to sub-contractors, suppliers and material men shall be applied to retire and extinguish the debts or obligations resulting from the performance of this Agreement.

3. **Term**

- 3.1 The term of this Agreement shall be from the date of approval of this Agreement until completion of the agreed upon services unless sooner terminated as provided below or unless some other method or time of termination is listed in **Exhibit A**.
- 3.2 Should either party default in the performance of this Agreement or materially breach any of its provisions, the other party, at that party's option, may terminate this Agreement by giving written notification to the other party.
- 3.3 This Agreement shall terminate automatically on the occurrence of (a) bankruptcy or insolvency of either party, (b) sale of Contractors business, (c) cancellation of insurance required under the terms of this Agreement, and (d) if, for any reason, Contractor ceases to be licensed or otherwise authorized to do business in the State of California, and the Contractor fails to remedy such defect or defects within thirty (30) days of receipt of notice of such defect or defects.
- 3.4 The County may terminate this agreement upon 30 days prior written notice to the Contractor. Termination of this Agreement shall not affect the County's obligation to pay for all fees earned and reasonable costs necessarily incurred by the Contractor as provided in Paragraph 2 herein, subject to any applicable setoffs.

4. **Required Licenses, Certificates and Permits**

Any licenses, certificates or permits required by the Federal, State, County or municipal governments for Contractor to provide the services and work described in **Exhibit A** must be procured by Contractor and be valid at the time Contractor enters into this Agreement. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates and permits in full force and effect. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses or certificates and business licenses. Such licenses, certificates and permits will be procured and

maintained in force by Contractor at no expense to the County.

5. **Office Space, Supplies, Equipment, Etc.**

Unless otherwise provided in Exhibit A, Contractor shall provide such office space, supplies, equipment, vehicles, reference materials and telephone service as is necessary for Contractor to provide the services identified in Exhibit A to this Agreement. County is not obligated to reimburse or pay Contractor for any expense or cost incurred by Contractor in procuring or maintaining such items. Responsibility for the costs and expenses incurred by Contractor in providing and maintaining such items is the sole responsibility and obligation of Contractor.

6. **Insurance**

6.1 Contractor shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:

6.1.1. **General Liability**—Comprehensive general liability insurance covering bodily injury, personal injury, property damage, products and completed operations with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by Contractor under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

6.1.2. **Automobile Liability Insurance**—If the Contractor or the Contractors officers, employees, agents, representatives or sub-contractors utilize a motor vehicle in performing any of the work or services under this Agreement, owned/non-owned automobile liability insurance providing combined single limits covering bodily injury, property damage and transportation related pollution liability with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence.

6.1.3. **Workers' Compensation Insurance**—Workers' Compensation insurance as required by the California Labor Code. In signing this contract, the Contractor certifies under section 1861 of the Labor Code that the Contractor is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and that the Contractor will comply with such provisions before commencing the performance of the work of this Agreement.

6.2 Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At the option of the County, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Contractor shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the County guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses. The County, in its sole discretion, may waive the requirement to reduce or eliminate deductibles or self-insured retentions, in which case, the Contractor agrees that it will be responsible for and pay any self-insured retention or deductible and will pay any and all costs, losses, related investigations, claim administration and defense expenses related to or arising out of the Contractors defense and indemnification obligations as set forth in this Agreement.

6.3 The Contractor shall obtain a specific endorsement to all required insurance policies, except Workers' Compensation insurance and Professional Liability insurance, if any, naming the County and its officers, officials and employees as additional insureds

regarding: (a) liability arising from or in connection with the performance or omission to perform any term or condition of this Agreement by or on behalf of the Contractor, including the insured's general supervision of its sub-contractors; (b) services, products and completed operations of the Contractor; (c) premises owned, occupied or used by the Contractor; and (d) automobiles owned, leased, hired or borrowed by the Contractor. For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County and its officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement by the Contractor.

- 6.4 The Contractors insurance coverage shall be primary insurance regarding the County and County's officers, officials and employees. Any insurance or self-insurance maintained by the County or County's officers, officials and employees shall be excess of the Contractors insurance and shall not contribute with Contractors insurance.
- 6.5 Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials, employees or volunteers.
- 6.6 The Contractors insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- 6.7 Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party except after thirty (30) days' prior written notice has been given to County. The Contractor shall promptly notify, or cause the insurance carrier to promptly notify, the County of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.
- 6.8 Insurance shall be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide acceptable to the County; provided, however, that if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance. A Best's rating of at least A-VII shall be acceptable to the County; lesser ratings must be approved in writing by the County.
- 6.9 Contractor shall require that all of its sub-contractors are subject to the insurance and indemnity requirements stated herein, or shall include all sub-contractors as additional insured under its insurance policies.
- 6.10 At least ten (10) days prior to the date the Contractor begins performance of its obligations under this Agreement, Contractor shall furnish County with certificates of insurance, and with original endorsements, showing coverage required by this Agreement, including, without limitation, those that verify coverage for sub-contractors of the Contractor. The certificates and endorsements 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 shall be received and, in County's sole and absolute discretion, approved by County. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.
- 6.11 The limits of insurance described herein shall not limit the liability of the Contractor and Contractors officers, employees, agents, representatives or sub-contractors.

7. Defense and Indemnification

- 7.1 To the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend the County and its agents, officers and employees from and against all claims,

damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorneys' fees, arising out of, resulting from, or in connection with the performance of this Agreement by the Contractor or Contractors officers, employees, agents, representatives or sub-contractors and resulting in or attributable to personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use; provided, however, such indemnification shall not extend to or cover loss, damage or expense arising from the sole negligence or willful misconduct of the County or its agents, officers and employees.

- 7.2 Contractors' obligation to defend, indemnify and hold the County and its agents, officers and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

8. Status of Contractor

- 8.1 All acts of Contractor and its officers, employees, agents, representatives, sub-contractors and all others acting on behalf of Contractor relating to the performance of this Agreement, shall be performed as independent proposers and not as agents, officers or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Exhibit A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer or employee of the County is to be considered an employee of Contractor. It is understood by both Contractor and County that this Agreement shall not be construed or considered under any circumstances to create an employer-employee relationship or a joint venture.
- 8.2 At all times during the term of this Agreement, the Contractor and its officers, employees, agents, representatives or sub-contractors are, and shall represent and conduct themselves as, independent proposers and not employees of County.
- 8.3 Contractor shall determine the method, details and means of performing the work and services to be provided by Contractor under this Agreement. Contractor shall be responsible to County only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement. Contractor has control over the manner and means of performing the services under this Agreement. Contractor is permitted to provide services to others during the same period service is provided to County under this Agreement. If necessary, Contractor has the responsibility for employing other persons or firms to assist Contractor in fulfilling the terms and obligations under this Agreement.
- 8.4 If in the performance of this Agreement any third persons are employed by Contractor, such persons shall be entirely and exclusively under the direction, supervision and control of Contractor. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the Contractor.
- 8.5 It is understood and agreed that as an independent Contractor and not an employee of County, the Contractor and the Contractors officers, employees, agents, representatives or sub-contractors do not have any entitlement as a County employee, and do not have the right to act on behalf of the County in any capacity whatsoever as an agent, or to bind the County to any obligation whatsoever.
- 8.6 It is further understood and agreed that Contractor must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Contractors assigned personnel under the terms and conditions of this Agreement.

- 8.7 As an independent Contractor, Contractor hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

9. Records and Audit

- 9.1 Contractor shall prepare and maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four (4) years from the termination or completion of this Agreement. This includes any handwriting, typewriting, printing, photostatic, photographing and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof.
- 9.2 Any authorized representative of County shall have access to any writings as defined above for the purposes of making audit, evaluation, examination, excerpts and transcripts during the period such records are to be maintained by Contractor. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

10. Confidentiality

The Contractor agrees to keep confidential all information obtained or learned during the course of furnishing services under this Agreement and to not disclose or reveal such information for any purpose not directly connected with the matter for which services are provided.

11. Nondiscrimination

During the performance of this Agreement, Contractor and its officers, employees, agents, representatives or sub-contractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental handicap, medical condition (including genetic characteristics), marital status, age, political affiliation or sex. Contractor and its officers, employees, agents, representatives or sub-contractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the County's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations.

12. Assignment

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience and training of Contractor and the Contractor's firm, associates and employees as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

13. Waiver of Default

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed

to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.

14. **Notice**

Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which Contractor or County shall be required or may desire to make shall be in writing and may be personally served or, alternatively, sent by prepaid first class mail to the respective parties at the appropriate address as follows:

15. **Conflicts**

Contractor agrees that it has no interest and shall not acquire any interest direct or indirect, which would conflict, in any manner or degree with the performance of the work and services under this Agreement.

16. **Severability**

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal, State or County statute, ordinance or regulation the remaining provisions of this Agreement or the application thereof shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

17. **Amendment**

This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties hereto if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to the original Agreement to maintain continuity.

18. **Entire Agreement**

This Agreement supersedes any and all other agreements, either oral or in writing, between any of the parties herein with respect to the subject matter hereof and contains all the agreements between the parties with respect to such matter. Each party acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.

19. **Advice of Attorney**

Each party warrants and represents that in executing this Agreement, it has received independent legal advice from its attorneys or the opportunity to seek such advice.

20. **Construction**

Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.

21. **Governing Law and Venue**

This Agreement shall be deemed to be made under, and shall be governed by and

construed in accordance with, the laws of the State of California. Any action brought to enforce the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first hereinabove written.

COUNTY OF STANISLAUS	CONTRACTORS NAME
By: _____ Keith D. Boggs, GSA Director Purchasing Agent / Deputy Executive Director "County"	By: _____ Name Title "Contractor"
APPROVED AS T CONTENT: Department of _____ By: _____ Name Title	
APPROVED AS TO FORM: John P. Doering County Counsel By: _____ Name Deputy County Counsel	



EXHIBIT A

A. SCOPE OF WORK

The Contractor shall provide services under this Agreement as follows:

B. COMPENSATION

The Contractor shall be compensated for the services provided under this Agreement as follows:

<Select either the time & materials compensation paragraph or the subsequent lump compensation paragraphs, including the retention paragraph at the end.>

Time & Materials Paragraph

1. Contractor will be compensated on a time and materials basis, based on the hours worked by the Contractor's employees or sub-contractors, multiplied by the current Schedule of Rates - Exhibit B attached hereto and, by this reference, made a part hereof; provided, however, the Contractor will provide the County 30-days notice before any change in the rate schedule takes effect. In addition to the aforementioned fees, Contractor will be reimbursed for the following expenses, plus any expenses agreed to by the parties as set forth in a Schedule of Rates - Exhibit B attached hereto, that are reasonable, necessary and actually incurred by the Contractor in connection with the services:
 - a) Any filing fees, permit fees, or other fees paid or advanced by the Contractor.
 - b) Expenses, fees or charges for printing, reproduction or binding of documents at actual costs.

OR

Lump Sum Paragraphs

2. Contractor will be compensated on a lump sum basis for each task as set forth in Exhibit B attached hereto and, by this reference, made a part hereof. In addition to the aforementioned fees, Contractor will be reimbursed for the following expenses, plus any expenses agreed to by the parties as set forth in a Schedule of Rates - Exhibit B attached hereto, that are reasonable, necessary and actually incurred by the Contractor in connection with the services:
 - a) Any filing fees, permit fees, or other fees paid or advanced by the Contractor.
 - b) Expenses, fees or charges for printing, reproduction or binding of documents at actual costs.
3. The County shall retain ten (10) percent of all periodic or progress payments made to the Proposer until completion and acceptance of all work tasks.

C. LIMIT OF EXPENDITURE

The parties hereto acknowledge the maximum amount to be paid by the County for services provided shall not exceed _____, including, without limitation, the cost of any sub-contractors, proposers, experts or investigators retained by the Contractor to perform or to assist in the performance of its work under this Agreement.

D. INVOICE REMIT TO:

The remit to address is:
Stanislaus County
Department of
Attention:

E. REPRESENTATIVES

The County's Project Manager is _____, (____) _____. The Contractors representatives is _____, (____) _____).

F. PROTECTION OF EXISTING FACILITIES

Contractor shall take every precaution to protect all public and private property during the performance of this contract. Any damages caused by Contractors personnel or equipment will be promptly repaired to the condition existing before the damage or be replaced. All such costs for such repairs or replacement shall be the sole responsibility of the Contractor.

G. SAFETY REQUIREMENTS

All services and merchandise must comply with current California State Division of Industrial Safety Orders and OSHA.

H. AGREEMENT PERIOD

This shall be effective from _____ or date of award; whichever is later, through _____.

I. TERMINATION FOR CONVENIENCE

The County may terminate this Agreement at any time for its convenience and at its sole option, in whole or in part, by giving written notice to Contractor. Contractor agrees to waive any claims for damages, including loss of anticipated profits, in the event the County terminates the Agreement as provided for in this paragraph. Upon such termination, the obligations of this Agreement shall continue as to any work already performed and the County shall pay Contractor the amount due for work properly performed as of the date of termination, less any sums previously paid.



EXHIBIT B

PRICE SCHEDULE

PRICE SCHEDULE:

The Contractor shall provide all the supervision, labor, equipment, materials and tools necessary to perform the services identified in **Exhibit A – Scope of Work / Specifications** in accordance with the rate schedule below.

The pricing for the initial Contract term and any renewable term is identified in the price schedule below:

**Stanislaus County
Request for Proposal**

Attachments:

Sample Agreement

Non-Collusion Affidavit to be Executed by Proposer and Submitted

Non-Collusion Affidavit Signature Page

Insurance Checklist

Bond Requirements

Proposal Cover Page

Local Vendor Preference Notice

Response Clarification Addendum

Proposal Checklist



**NON-COLLUSION AFFIDAVIT TO BE EXECUTED BY
PROPOSER AND SUBMITTED WITH RFP**

(Title 23 United States Code Section 112 and
Public Contract Code Section 7106)

To the County of Stanislaus, Stanislaus County General Services Agency, Purchasing Division:

In accordance with Title 23 United States Code Section 112 and Public Contract Code 7106 the Proposer declares that the RFP is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived or agreed with any Proposer or anyone else to put in a sham proposal or that anyone shall refrain from proposing; that the Proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the Proposer or any other Proposer, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other Proposer, or to secure any advantage against the public body awarding the contract of any one interested in the proposed contract; that all statements contained in the proposal are true; and, further, that the Proposer has not, directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, proposal, depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

DECLARATION UNDER PENALTY OF PERJURY

The undersigned Proposer declares and certifies under the penalty of perjury: that the only persons or parties interested in this RFP as principals are those named herein as Proposer, that he/she holds the position indicated below as a corporate officer or the owner or a partner in the business entity submitting this proposal; that the undersigned has examined the "General Conditions and Instructions to Proposers" and the specifications; that the undersigned is informed of all the relevant facts surrounding the preparation and submission of this RFP, that the undersigned (if awarded a contract) will execute and fully perform the contract for which the proposals are called; that the undersigned will perform all the work and/or furnish all the materials specified in the contract, in the manner and time therein prescribed, and according to the requirements as therein set forth; and that the undersigned will take in full payment therefore, the prices set forth in the pricing schedule of the contract; that the undersigned knows and represents and warrants to the County of Stanislaus that this proposal is prepared and submitted without collusion with any other person, business entity, or corporation with any interest in this proposal.

(Please sign on the following page)



**NON-COLLUSION AFFIDAVIT TO BE EXECUTED BY
PROPOSER AND SUBMITTED WITH RFP**

I declare under penalty of perjury that the foregoing is true and correct.

RFP PROPOSERS INFORMATION

Name of Proposer:

Primary Contact for Proposing Agency:

Business Address:

City:

Zip Code:

State:

Phone:

Fax #:

Taxpayer ID #:

Business License #:

E-mail:

Type of Business:

- Individual doing business under own name
- Individual doing business using a firm name
- Joint Venture—attach agreement
- Corporation
- Partnership

Date Signed:

Print Name:

Signature:

Initials:

Title:

To be signed by authorized corporate officer or partner or individual submitting the proposal.

The above Non-Collusion Affidavit is part of the RFP. Signing this RFP on the signature portion thereof shall also constitute signature of this Non-Collusion Affidavit. Proposers are cautioned that making a false certification may result in criminal prosecution.



INSURANCE CHECKLIST

CERTIFICATE OF INSURANCE CHECKLIST

Name of Proposer:

	General Liability	Auto	Workers' Compensation
NAIC # of insurers is provided on the certificate.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Policy limits of insurance meet requirements in the agreement.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Deductibles are declared and approved or waived by County.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Expiration date of policy is six months or more into the future.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
30 day notice of cancellation included.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Certificate Holder is "Stanislaus County."	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Endorsement naming "Stanislaus County" as "Additional Insured" included.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Waiver of subrogation endorsement included.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Carrier is admitted/licensed to issue insurance in California.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Best's rating of no less than A-, and Financial Size Category of at least VII.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pollution Insurance requirement.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Resource Help:

LESLI surplus line carrier is okay if no California carrier writes the insurance. If carrier is reinsured, must be approved by County Counsel.

If not in California:

[http://cdinswww.insurance.ca.gov/pls/wu_co_lines/idb_co_list\\$.startup](http://cdinswww.insurance.ca.gov/pls/wu_co_lines/idb_co_list$.startup)

For all "Insurers" listed on Certificate; State Fund is okay/an exception

For information on ratings:

<http://www3.ambest.com/ratings/advanced.asp?bl=0&Menu=Search+Best%27s+Ratings>



BOND REQUIREMENTS

Section 3, General Requirements and Information, describes the specific security/bonding requirements. If required, only the successful Proposer shall submit a performance and payment bond as described in this RFP.

BOND REQUIRED

Proposal Security required	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Amount 10% of the Project Price
Performance Bond required	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Amount 100%
Payment Bond required	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Amount 100%

FOR COUNTY USE ONLY

Proposal was opened on the following date and at the prescribed place.

FOR COUNTY USE ONLY

Cashiers or Certified Check drawn on a California Bank. Yes No

Surety Bond Yes No

Date:

Stanislaus County General Services Agency Purchasing Division

Signature:

Initials:

Title:



PROPOSAL COVER PAGE

The undersigned certifies and declares that any and all statements and information in the attached proposal are true and correct.

RFP PROPOSERS INFORMATION

Name of Proposing Agency:

Primary Contact for Proposing Agency:

Project Name: RFP #: RFP Closing Date:

Business Address:

City: Zip Code: State:

Phone: Fax #:

Taxpayer ID #: Business License #:

E-mail: Phone:

Date Signed:

Print Name:

Signature: Initials:

Title:

FOR COUNTY USE ONLY

Proposal Number: Date:

Received by:

Title:



LOCAL VENDOR PREFERENCE NOTICE

TO: ALL PROSPECTIVE PROPOSERS
SUBJECT: LOCAL VENDOR PREFERENCE

Stanislaus County (County) has established a local vendor preference (see Stanislaus County Code § 2.24.125) which defines a local vendor as any business that:

1. Has a fixed office or distribution point located within the county of Stanislaus for at least one year prior to the transaction for which preference is claimed (post office boxes do not qualify as a verifiable business address); and.
2. Holds a valid business license issued by the County or a city within the County; and
3. Employs at least one full-time employee whose primary residence is located in Stanislaus County; or if the vendor has no employees, at least fifty percent (50%) of vendor's business shall be owned by one or more persons whose primary residence is located in Stanislaus County.

Individual County Buyers evaluate bids, quotes and proposals considering the local vendor preference described above. The burden of proof will lie with proposers relative to verification of "local" vendor preference. Should any questions arise, please contact a buyer at (209) 525-6319. Each vendor is encouraged to quote the lowest price at which items or services listed in County proposals can be furnished.

	Yes	No
1. Do you claim local vendor preference? If so, please complete		
2. Do you conduct business in an office with a physical location within Stanislaus County?		
(a) If yes, provide business address: _____ _____		
(b) Date on which business was established at this address: _____		
3. Does your business hold a valid business license issued by Stanislaus County or a city within Stanislaus County?		
(a) If yes, provide license number (_____) and name of local agency which issued license (_____)		
4. Do you have either:		
(a) At least one full-time employee whose primary residence is located in Stanislaus County		
(b) If you have no employees, is at least fifty percent (50%) of your business owned by one or more persons whose primary residence is located in Stanislaus County?		

Proposer's Name (printed):	
Proposer's Signature:	
Title:	



RESPONSE CLARIFICATION ADDENDUM

RESPONSE CLARIFICATION ADDENDUM

Addendum Number	Dated	Date Received	Initials
------------------------	--------------	----------------------	-----------------

Print Proposers Name:

Proposers Signature:

Title:

Signed addenda/addendum to be included in the RFP response. If an addenda/addendum is issued, the Proposer shall complete the above form and return it with the RFP response.



PROPOSAL CHECKLIST

SUBMITTAL CHECKLIST

	YES	NO
1 Signed Proposal Cover Page.	<input type="checkbox"/>	<input type="checkbox"/>
2 Local Vendor Preference Notice	<input type="checkbox"/>	<input type="checkbox"/>
3 RFP package completed and signed. Submit an original and five (5) additional signed copies.	<input type="checkbox"/>	<input type="checkbox"/>
4 W9 form Request for Taxpayer Identification Number and Certification.	<input type="checkbox"/>	<input type="checkbox"/>
5 Exceptions to the terms and conditions of this RFP.	<input type="checkbox"/>	<input type="checkbox"/>
6 Exception to the Sample Agreement.	<input type="checkbox"/>	<input type="checkbox"/>
7 Insurance Checklist.	<input type="checkbox"/>	<input type="checkbox"/>
8 One separately sealed envelope marked "PROPOSAL"	<input type="checkbox"/>	<input type="checkbox"/>
9 One separately sealed envelope marked "RFP-PRICING"	<input type="checkbox"/>	<input type="checkbox"/>
10 Signed Non-Collusion Affidavit.	<input type="checkbox"/>	<input type="checkbox"/>
11 Bond Requirements.	<input type="checkbox"/>	<input type="checkbox"/>
12 Response Clarification Addendum	<input type="checkbox"/>	<input type="checkbox"/>

Please return this checklist with your Request for Proposal submittal packet.

**STANISLAUS COUNTY GSA PURCHASING DIVISION
for
OFFICE OF EMERGENCY SERVICES (OES) Division**

SCOPE OF WORK

A. OVERVIEW

The County of Stanislaus, for the benefit of its Office of Emergency Services Division, requests proposals for one (1) CONTAINMENT VESSEL for the Sheriff Department's Bomb Team.

B. PROPOSAL INTENT

All submitted proposals should be itemized and reflective of expectations and desired features.

All submitted proposals will be reviewed, evaluated, and ranked based on meeting the containment vessel specification and needs of the County's Office of Emergency and Fire Department Division staff.

C. COMPLETE PACKAGE

Unit shall be a complete package from the Vendor. Vendor will be responsible for delivery and installation of a complete operational containment vessel. Preliminary and final configuration of vessel will be coordinated with County's Office of Emergency and Fire Department Division staff for review and comment.

D. SPECIFICATIONS

The following specifications are minimum specifications otherwise noted. These specifications are prepared to represent features best suited for the intended use of the unit and are not intended to exclude any unit that varies slightly from these specifications. Such variations are subject to evaluation by County's Office of Emergency and Fire Department Division staff.

CONTAINMENT VESSEL

Door	Self/remote closing door	
Capability	Capable of handling repeated detonations equal to 10lbs. C-4 equivalent, vented or unvented, and provides protection from blast wave and fragmentation. Vessel must not require recertification after each detonation within this limit.	
Containments	Chem/Bio package that completely contains contaminants and allows for external testing and introduction of neutralizing agents	
Trailer	Mounted on a trailer that is designed to meet California requirements for towing on highways. Trailer with vessel mounted, must be able to be towed by GMC 5500 equivalent or lighter vehicle.	
PROPOSALS MUST INCLUDE:		
Maximum Explosive Containment	Identify the maximum explosive force the vessel is designed to contain with or without recertification.	
Stand Off Distance	Identify the minimum standoff distance from detonation in the closed vessel	
Maintenance	Identify all required/recommended maintenance. For each maintenance item, note whether it is required or recommended and if it can be performed by the customer or must be performed by factory representatives. If item must be performed by factory representatives, note if maintenance occurs at customer site or transportation to another location is required. Identify parts, with cost that will be needed for routine maintenance. Identify required maintenance cost.	
Required Training	Describe the time needed to properly train the customer on use of the vessel and whether or not such training can be done at the customer's site.	

Pre-Test Requirements & Results	Units supplied with certified test report showing proof test with 10lb. C-4 explosives. All units radio graphed to the requirements of ASME Section 8.	
EOD (Explosive Ordnance Disposal)	Describe ways the vessel may be used in conjunction with EOD robotic vehicles.	



GSA PURCHASING DIVISION
1010 10th Street, Suite 5400, Modesto, CA 95354
PO Box 3229, Modesto, CA 95353-3229
Phone: (209) 525-6319
Fax: (209) 525-7787

ADDENDUM NO. 1 RFP No. 13-14-CB

To: All Prospective Proposers

May 24, 2013

Prospective Proposers for the **RFP #13-14-CB Containment Vessel** are hereby notified of all of the following questions and answers provided through the Public Purchase site, which are collect and shown as follows:

QUESTIONS / ANSWERS:

1. Page 45, Door: Our self-closing doors come standard with a 25' tethered pendant control, allowing for operation of the door 25' from vessel door. However, we also offer an option called Programmable Logic Control which allows the robot to open and close the door using a push-button mounted onto the trailer. Does "remote" in this line item specification indicate use by tethered pendant? Or by robotic operation?

Answer: Please provide items specified. If you want to provide an option in addition to the specifications, please specify the optional items and pricing.

2. Page 45, Trailer: Can you clarify year, model and the bumper towing capacity of the tow vehicle?

Answer: *Year /Model to be used: 2007 GMC – C5500. As requested, the towing capacity of vehicle is as follows: Maximum gross combined weight (GCW) is 26,000 lbs. We need the current weight of the truck and cargo to calculate the maximum trailer weight. However, the receiver and ball mount has a maximum weight rating of 1,200 lbs. tongue weight and 12,000 towing capacity.*

3. Referencing Section 5.3.1 – Financial Reports items 1 & 2: Due to the confidentiality of our financial reports as a privately held company, we respectfully propose an alternative methodology for proving our financial soundness in the form of our past three (3) auditors' opinion letter Is this sufficient?

Answer: Yes, if the auditor(s) can confirm the last three (3) years financials clearly stated on their letterhead

4. Proposal Security requirement; we offer to supply a standby letter of credit in lieu of a bond. How long should the letter be valid for, if accepted?

Answer: This letter of credit must be issued by the vendor's current lending institution with an "open" account that has been operating for more than 1-2 years. This requirement isn't necessary unless you are proven to be the "most responsive" proposer.

5. How long should the letter of credit be valid?

Answer: The letter of credit must remain in place until the project is "approved" and fully "accepted" by Stanislaus County OES Department.

6. If we decide to send a check, what is the process...before bidding, at time of bid or only if awarded?

Answer: Only if awarded.

7. Please clarify the statement on page 17, section 5.3.2, bullet 3; "number of years in business as a (Type of proposer i.e., Rate Review) Consulting firm"?

Answer: This statement would now refer to...number of years in business providing containment vessels as specified in the SOW. These sections speak to your firm's ability on why you can respond to this RFP.

8. We are proposing an "off the shelf" product for RFP #13-14-CB. Is it necessary to provide the details requested in the following sections? Page 17, section 5.3.2, bullet 6; Page 18, section 5.3.2, bullet 14 and Page 18, section 5.3.3, bullet?

Answer: Yes.

9. Stanislaus County has a Local Vendor Preference Notice. Can you elaborate on the benefit given to the vendors that qualify for this notice?

Answer: Please feel free to review our website: <http://gcode.us/codes/stanislauscounty/> Section 2.24.125; Local Vendor Preference.

ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

THIS ADDENDUM MUST BE SIGNED AND SUBMITTED WITH RFP #13-14-CB.

Please submit further requests for clarification to: blairc@stancounty.com

.....
Proposer

Cathy Blair

.....
Cathy Blair, Senior Buyer



Exhibit B to MSI Appeal

June 20, 2013

Ms. Cathy Blair, Sr. Buyer
Stanislaus County, GSA Purchasing Division
1010 Tenth Street, Suite 5400
Modesto, CA 95353

Re: Protest of the Award of RFP # 13-14-CB; Containment Vessel

Protestor Mistral Security, Inc.
7910 Woodmont Avenue, Suite 820
Bethesda, Maryland 20814
Tel: (301) 913-9366
Fax: (301) 913-9369

Dear Ms. Blair,

Mistral Security Inc. ("MSI") is an offeror under the referenced solicitation. MSI's corporate address is 7910 Woodmont Ave. Suite 820, Bethesda, MD. 20814

As detailed more fully below, the Stanislaus County, GSA Purchasing Division in the above referenced solicitation being financed by the Department of Homeland Security under the State Homeland Security Grant, violated the Competition in Contracting Act ("CICA"), Federal Acquisition Regulation ("FAR") part 15, and binding Government Accountability Office ("GAO") precedent, and acted in an unreasonable, arbitrary, and capricious manner, by eliminating MSI from consideration for award range in this procurement. MSI requests that the Stanislaus County, GSA Purchasing Division 1) place MSI into the competitive range; 2) conduct such communications or such other exchanges as allowed by FAR part 15.306 as are afforded all other offerors; and 3) provide such other relief as the GAO deems appropriate. The detailed factual and legal bases of protest, including MSI's requested documents and relief, follow.

Mistral Security is sending this letter to the County per the procedure within the RFP prior to communicating to the Federal Agency funding this project.

I. BACKGROUND

The solicitation in this procurement was issued on May 14, 2012. After a solicitation amendment dated May 24, 2013, MSI submitted a timely, compliant proposal on June 7, 2013. The solicitation was for one Containment Vessel; the County indicated its intention to procure

one Containment Vessel. MSI is an experienced manufacturer of this type of unit and has supplied the United States Government and other governments for over 20 years.

The evaluation factors for award were as follows:

6.1 Evaluation of Proposals

This section identifies the selection process, evaluation criteria, and steps that shall be used in evaluating Proposer responses. Award shall be made to the proposer whose proposal is determined in writing to (a) best meet the criteria set forth herein and (b) provide the best value to the County. The following describes the evaluation process and associated components.

6.2 Selection Process

The County shall name, for the purpose of evaluating the proposals received in response to this RFP, establish an Evaluation Committee (EC). The EC shall be composed of representatives from the County and, as the County's sole qualified representatives from other agencies or entities.

Proposal documentation requirements set forth in this RFP are designed to provide guidance to the proposer concerning the type of information that shall be used by the EC. Proposers shall be prepared to respond to requests by the EC for oral presentations, facility surveys, and other items deemed necessary to assist in the detailed evaluation process. Proposers are advised that the County, at its option, may award this proposal on the basis of the initial proposals.

6.3 Evaluation Phases

It is anticipated that the following steps will be performed by the EC in evaluating proposals; however, a strict observance to the Evaluation Steps is not required. A description of each evaluation step is provided.

- Phase I Evaluation of Financial Reports
- Phase II Evaluation of Qualification Proposals,
- Phase III Evaluation of Pricing Proposals

6.3.1 Phase I Evaluation of Financial Reports

Phase I is a pass/fail evaluation for submission completeness and financial review. Purchasing will conduct a pass/fail analysis of (a) each submitted Proposal for completeness and (b) the financial stability of each proposer. During Phase I, the Pricing Proposals will remain unopened and be retained by Purchasing. Upon completion of its analysis, Purchasing, will forward those Qualification Proposals that have passed Phase I to the EC. (b) The Pricing Proposals will remain with Purchasing until the EC has completed Phase II, the evaluation of the Qualification Proposals.

6.3.2 Phase Two Evaluation of Qualification Proposals

In Phase II, the EC will review and evaluate the Qualification Proposals of the proposers, and each proposer will be given a score. During this phase reference checks will be performed, and proposers may be interviewed. Should the EC exercise its option to interview, the proposers will be assigned a preliminary.

Phase II score and only those receiving the highest preliminary scores shall be placed on an "Interview List." Those on the Interview List shall be requested to make a formal presentation of their proposals to the EC. On the basis of the oral presentation and the written proposal, the EC shall assign a final Phase II score for each proposer and make a final ranking of potential proposers.

6.3.3 Phase III Evaluation of Pricing Proposals

In Phase III, Purchasing shall forward all RFP Pricing/Fee Schedules to the EC for evaluation. The EC shall review the RFP Pricing/Fee Schedules and select/recommend the proposal which is determined in writing to (a) best meet the criteria set forth herein and (b) provide the best value to the County. The EC shall be responsible for performing the evaluations of each proposal, including an evaluation of the proposed cost. Each member of the EC shall rate the proposals separately unless the proposals are technical in nature. In such cases a subject matter expert may be called upon to score that section of the RFP for all proposals. The scores of each member of the EC shall then be averaged to provide a total score for each of the proposers. The proposals shall be evaluated on the following categories and the maximum weight possible for each category is listed below:

Phase I – Review and Evaluate Financials Pass/Fail
Notify Proposers Proceeding onto Phase II N/A

PHASE II MAXIMUM POINTS

Phase II – Proposer’s Understanding of RFP and Ability To Meet
All Aspects of the RFP 40
Phase II – Proposed Containment Vessel. Layout Meets RFP
Requirements 20
Phase II – Proposed Delivery / Setup Schedule 10
Phase II – Proposer’s Qualifications 20
Sub Total for Proposal Points: 90

PHASE III MAXIMUM POINTS

Phase III – Pricing 10

TOTAL POSSIBLE WEIGHT OR POINTS: 100

EVALUATION

MSI submitted a timely proposal in response to the solicitation. MSI’s proposal contained detail information in response to every solicitation requirement, consistent with the referenced RFP guidelines. On information provided by the County in an e-mail dated June 17, 2013, MSI had the lowest evaluated price of all offerors.

On June 17, 2013, MSI received a letter from the County advising Mistral Security of a non-award.

On June 17, 2013, MSI requested a debriefing from the County. The debriefing was conducted on June 19, 2013.

II. TIMELINESS AND STANDING

MSI's protest is timely filed. Pursuant to 4 C.F.R. §21.2(a) (2), this protest is being filed within five days of the County's notification of non-award. Thus, this timely protest triggers the CICA and FAR part 33 requirements that the County not award this contract during the pendency of this protest or, if a contract has been awarded, that a Stop Work Order be issued.

MSI is an actual offeror on this procurement, and thus meets the GAO definition of "interested party" at 4 C.F.R. § 21.0.

III. LEGAL GROUNDS OF PROTEST

MSI protests the County's technical evaluation which is inconsistent and not in accordance to the definition of the RFP evaluation criteria, which resulted in improper elimination from the competitive range. A brief examination of the debriefing notes demonstrates the inconsistent methodology of the scoring system (specific criteria and weight).

During the debrief presented to MSI by the County the following scoring breakdown by each EC was provided for phase II and broken down to the four subsections of the phase as noted below:

Vendor	Scorer #1	Scorer #2	Scorer #3	Scorer #4
Mistral Total	86	80	88	76
Phase II – proposer's Understanding of RFP and Ability To Meet All Aspects of the RFP (40 pts. possible)	40	31	40	30
Phase II – Proposed Containment Vessel. Layout Meets RFP Requirements (20 pts. Possible)	18	20	20	20
Phase II – Proposed Delivery / Setup Schedule (10 pts. possible)	10	8	9	8
Phase II – Proposer's Qualifications (20 pts. possible)	18	18	20	20

The County's most significant downgrade of score for Phase II in MSI's proposal was between scorer 2 and 4 for "Understanding of RFP and ability to meet all aspects of the RFP."

Mistral Security submitted a proposal that complied with every requirement within the RFP and included a compliance matrix in the proposal to prove it. Section II scores the "understanding of the RFP", Mistral argues that it displayed a high level of understanding of the requirement in the RFP by proposing a better solution, with higher capacity explosive containment by removing the weight barrier posed by current towing vehicles. Mistral Security's solution actually exceeds the blast containment requirement of the RFP, offering a complete independent solution at the most attractive price of all offerors.

During the debrief Mistral requested the County Representative to explain the reasons for the lower grades scorers 2 and 4 gave to Mistral for the evaluation of Phase II – Proposer's Understanding of RFP and Ability To Meet All Aspects of the RFP.

In his response, the County's Representative stated that the reason the two evaluators reduced the score was due to operational reasons. In specific the local bomb representatives are responding to calls from their homes and the evaluators took into consideration the SOP of the unit. Mistral Security proposed a solution based on the requirement in the RFP, and if there was an additional factor to be considered regarding the local SOP it should have been outlined accordingly in the RFP, otherwise it cannot be a criteria for scoring. The requirement stated within the RFP was "a vessel mounted trailer which, must be able to be towed by GMC 5500 equivalent", Mistral Security communicated with the GMC dealer in Stanislaus County and learned that the GMC 5500 was discontinued, therefore Mistral Security proposed as part of its proposal a complete solution including a GMC 3500 HD SLT Sierra truck which replaced the previous model.

The significant disparity from scorers 2 and 4's findings should have triggered discussions on behalf of the County to obtain clarity and understanding. FAR part 15.306 provides a ready mechanism for the government to request, and contractors to provide, clarifications and other information regarding a proposal. The County should have requested MSI to clarify any area where it was unsure about the depth of MSI's experience, technical capabilities, or similar issues. This action did not occur.

In addition, in Phase II, part 3 Proposed Delivery / Setup Schedule, MSI in its offer to the County proposed a delivery schedule. When being evaluated, Scorer 2 rated MSI with a total of 8 pts., Scorer, 3 rated MSI with a total of 9 points and scorer 3 rated Mistral with a total of 8 pts. , with only scorer 1 rating MSI with a total of 10 points. Delivery date requirement should be a pass/fail requirement; MSI either met or did not meet the County's requirement. If it is compared to other vendors and scored relative to other vendors it should have been communicated during the RFP phase, and the County should have expressed its expectations. It seems that the requirement was not clear even to the scorers, otherwise it is hard to explain how one scorer decided that we fully met the requirement and the other three disagreed.

Here again, FAR part 15.306 provides a ready mechanism for the government to request, and contractors to provide, clarifications and other information regarding a proposal.

MSI submitted a proposal that conformed to the solicitation's requirement. MSI provided all of the information the County needed to evaluate the proposal on the merits. The County's rating of MSI, with a non-award, essentially comes down to a finding that MSI did not provide enough information in its proposal. That finding is arbitrary and capricious, as exhibited by the disparity in the scorer's findings.

As stated FAR part 15.306 provides a ready mechanism for the government to request, and contractors to provide, clarifications and other information regarding a proposal. Given the size of the potential dollar value of the solicitation, the County should have requested MSI to clarify any area where it was unsure about the depth of MSI's experience, technical capabilities, or delivery schedule confusion.

In particular, FAR part 15.306(b) provides guidance on just this situation. The regulation provides (in part):

(b) Communications with offerors before establishment of the competitive range.

Communications are exchanges, between the Government and offerors, after receipt of proposals, leading to establishment of the competitive range. If a competitive range is to be established, these communications—

(1) Shall be limited to the offerors described in paragraphs (b)(1)(i) and (b)(1)(ii) of this section and—

(i) Shall be held with offerors whose past performance information the determining factor is preventing them from being placed within the competitive range. Such communications shall address adverse past performance information to which an offeror has not had a prior opportunity to respond; and

(ii) May only be held with those offerors (other than offerors under paragraph (b)(1)(i) of this section) whose exclusion from, or inclusion in, the competitive range is uncertain;

(2) May be conducted to enhance Government understanding of proposals; allow reasonable interpretation of the proposal; or facilitate the Government's evaluation process. Such communications shall not be used to cure proposal deficiencies or material omissions, materially alter the technical or cost elements of the proposal, and/or otherwise revise the proposal. Such communications may be considered in rating proposals for the purpose of establishing the competitive range;

(3) Are for the purpose of addressing issues that must be explored to determine whether a proposal should be placed in the competitive range. Such communications shall not provide an opportunity for the offeror to revise its proposal, but may address—

(i) **Ambiguities in the proposal or other concerns (e.g., perceived deficiencies, weaknesses, errors, omissions, or mistakes (see 14.407)); and**

(ii) **Information relating to relevant past performance...** (Emphasis Added)

As noted above, MSI provided exactly the information the solicitation required. However, to the extent the County scorers believed the proposal did not provide the level of detail necessary, FAR part 15.303(b) required the County to hold communications with MSI to resolve those

“omissions” or “deficiencies.” The County’s failure to do so, and the resulting elimination, is arbitrary and unreasonable, and a violation of procurement regulations.

IV. REQUESTED RULING, RELIEF, PROTECTIVE ORDER, AND DOCUMENTS

MSI respectfully requests that the County find it improperly eliminated MSI from the procurement.

For the above-stated reasons, MSI respectfully requests that the County sustain this protest and award the contract to Mistral Security Inc. based on the price proposal and the fact that MSI exceeded the technical requirements as demonstrated above.

Regards,

Jack A. Yohe, Jr.
Vice President



Exhibit C to MSI Appeal

**GENERAL SERVICES AGENCY
PURCHASING DIVISION**

Keith D. Boggs
Deputy Executive Officer
GSA Director/Purchasing Agent

1010 10th Street Suite 5400 Modesto, CA 95354

Phone (209) 525-6319
Fax (209) 525-7787

July 2, 2013

MISTRAL SECURITY

Attn: Mr Jack A Yohe, Jr
7910 Woodmont Avenue, Ste 820
Bethesda, MD 20814

RE RFP 13-14-CB, Containment Vessel
Protest Letter Dated 6/20/13 from Mistral Security
Closing Date of RFP 6/7/13

Dear Mr Yohe

I am in receipt of your correspondence dated June 20, 2013 and received by my office on June 21, 2013 (the "Protest Letter") regarding RFP #13-14-CB; Containment Vessel (the "RFP")

You may recall that the protest procedure is set forth clearly in Section 3 15 of the RFP Specifically, subsection "c" establishes that each protest must

Contain a concise statement of the grounds for protest, provided, however, RFP processes and procedures, including the evaluation criteria, shall not be proper grounds for protest Concerns related to such issues should be raised and addressed, if at all, prior to the bid or proposal opening date to allow adjustments before evaluation of bids or proposals

The stated grounds for protest as shown on page 4 of the Protest Letter are the "...County's technical evaluation which is inconsistent and not in accordance to the definition of the RFP evaluation criteria, which resulted in improper elimination from the competitive range." The Protest Letter then alleges an inconsistent methodology of the scoring system (specific criteria and weight)

The process for evaluating the proposals, as set forth clearly in Section 6 3 of the RFP and correctly recited in the first three pages of the Protest Letter, did not include a technical evaluation Rather, the three-phased process consisted of an evaluation of financial reports (Phase I), an evaluation of qualification proposals (Phase II) and an evaluation of pricing proposals (Phase III)

Phases II of the process, apparently the phase in question, was conducted by an evaluation committee (EC). The EC is comprised of subject matter experts, each with a different perspective which makes for a thorough, robust evaluation When comparing all of the responding proposals, it is expected that these varying perspectives would result in slightly different scoring There was no "additional factor to be considered" as alleged by Mistral, another proposer simply provided a better solution as evident from the resultant Phase II scores The variance was slightly less than ten points, which is within a reasonable range.

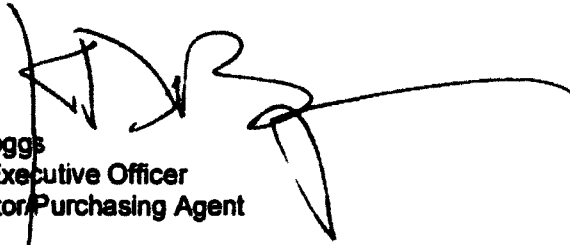
Please note that neither RFP processes nor procedure – which would include evaluation and scoring – are proper grounds for protest. Any questions or concerns regarding these issues should have been addressed in writing prior to the question deadline MSI's protest is without merit and is therefore denied.

Lastly, the grant that will reimburse the County is federally funded and we (County) must follow their rules, which allows for state and local governments to use their own procurement procedures which reflect applicable state and local laws and regulations as directed by the CFR PART 13 – Uniform Administrative Requirements for

Grants and Cooperative Agreements to State & Local Governments, Subpart C, subparagraph 13.36; Procurement. Should you wish to discuss the grant funding further, you may contact Bill Canepa at Cal EMA at (916) 845-8744

Thank you for your concerns in this matter and wanting to meet the needs of the county

Sincerely,

A handwritten signature in black ink, appearing to read 'KB', with a long horizontal flourish extending to the right.

**Keith D Boggs
Assistant Executive Officer
GSA Director/Purchasing Agent**

**cc RFP File
R Verduzco – OES Division
B Canepa – Cal EMA**