

# STATE OF CALIFORNIA

## OFFICE OF ADMINISTRATIVE LAW



## **REQUEST FOR PROPOSALS FOR THE PUBLICATION OF THE CALIFORNIA CODE OF REGULATIONS AND THE CALIFORNIA REGULATORY NOTICE REGISTER**

**RFP – CCR - 2010**

**April 30, 2010**

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## TABLE OF CONTENTS

<b>1. INTRODUCTION AND PURPOSE</b>	<b>- 4 -</b>
1.1. Overview	- 4 -
1.2. Scope of This RFP/Caution to Bidders	- 4 -
1.3. Terminology/Acronyms	- 5 -
1.4. Notice to Persons with Disabilities	- 5 -
1.5. OAL Contact Information	- 5 -
<b>2. RULES GOVERNING COMPETITION</b>	<b>- 6 -</b>
2.1. Summary	- 6 -
2.2. Key Action Dates	- 6 -
2.3. Bidder's Conference	- 6 -
2.4. Proposal Submission Requirements	- 6 -
2.4.1. Modification, Withdrawal, Incomplete Proposals	- 8 -
2.5. Addenda	- 8 -
2.6. Error or Ambiguity in RFP Documents	- 8 -
2.7. False or Misleading Statements	- 8 -
2.8. Evaluation of Proposals	- 8 -
2.8.1. Evaluation Committee	- 8 -
2.8.2. Evaluation Stages	- 9 -
2.8.3. Product Demonstration	- 9 -
2.8.4. Evaluation and Scoring	- 9 -
2.8.5. EVALUATION CRITERIA	- 10 -
2.8.6. SCORING METHODOLOGY	- 11 -
2.8.7. Tied Bids	- 12 -
2.9. Award and Protest	- 12 -
2.9.1. Notice of Intent to Award Contract	- 12 -
2.9.2. Award of Contract	- 12 -
2.9.3. Protest	- 12 -
2.10. Confidentiality/Disposition of Proposals	- 12 -
<b>3. SCOPE OF WORK/REQUIRED PUBLICATION SERVICES</b>	<b>- 14 -</b>
3.1. Summary	- 14 -
3.2. The Official California Code of Regulations	- 14 -
3.2.1. California Regulatory Actions	- 14 -
3.2.2. Processing of Regulatory Actions for Publication	- 14 -
3.2.3. About the Official California Code of Regulations	- 15 -
3.2.4. CCR Master Database	- 17 -
3.2.5. Publication Specifications for the Official CCR	- 17 -
3.2.6. Publication Specifications for the CCR Supplement	- 18 -
3.2.7. Publication Specifications for Tables of Contents	- 19 -
3.2.8. Publication Specifications for the Master Index	- 19 -
3.2.9. Publication Specifications for the CD-ROM CCR	- 20 -
3.2.10. Subscription Information	- 20 -
3.2.11. Title 24 Explanatory Note	- 21 -
3.3. The California Regulatory Notice Register	- 21 -
3.3.1. About the California Regulatory Notice Register	- 21 -

3.3.2. Publication Specifications for the Notice Register _____	- 21 -
3.4. The Internet CCR _____	- 22 -
3.5. Transmission of Material for Publication _____	- 24 -
3.6. Editorial Responsibilities and Accuracy _____	- 25 -
3.7. Publications and Services for OAL _____	- 25 -
3.8. Publications for County Clerks and Depository Libraries _____	- 26 -
3.9. Reports _____	- 26 -
<b>4. MINIMUM QUALIFICATIONS FOR PROPOSERS _____</b>	<b>- 27 -</b>
4.1. Summary _____	- 27 -
4.2. Business Requirements _____	- 27 -
4.2.1. Financial Capability _____	- 27 -
4.2.2. Place of Performance _____	- 27 -
4.2.3. Subcontractors _____	- 28 -
4.3. Experience _____	- 28 -
4.3.1. Expertise and Staffing _____	- 28 -
4.3.2. Work Samples _____	- 28 -
4.3.3. Customer References _____	- 29 -
4.4. Implementation, Performance and Transition Plan _____	- 29 -
4.5. Accuracy Plan _____	- 30 -
4.6. Availability and Operational Recovery Plan _____	- 31 -
4.7. Internet CCR Plan _____	- 31 -
4.8. Compensation _____	- 32 -
<b>5. PREFERENCE PROGRAMS, APPLICABLE STATE LAWS _____</b>	<b>- 33 -</b>
5.1. Summary _____	- 33 -
5.2. Small Business Preference _____	- 33 -
5.3. Disabled Veteran Business Enterprises (DVBE) _____	- 33 -
5.4. Target Area Contract Preference Request _____	- 33 -
5.5. Local Area Military Base Recovery Act _____	- 33 -
5.6. Enterprise Zone Preference Request _____	- 33 -
5.7. Darfur Contracting Act _____	- 34 -
5.8. Air or Water Pollution _____	- 34 -
5.9. Fair Employment and Housing _____	- 34 -
5.10. Additional Applicable State Laws _____	- 34 -
<b>6. REQUIRED ATTACHMENTS _____</b>	<b>- 35 -</b>
6.1. Volume 1 Attachments _____	- 35 -
6.2. Volume 2/Compensation Offer Form _____	- 36 -

# 1. INTRODUCTION AND PURPOSE

## 1.1. Overview

The California Office of Administrative Law (OAL) is required by Government Code section 11344 to provide for the official compilation, printing, and publication of state regulations in the Official California Code of Regulations (CCR), and to update the code weekly by issuing the CCR Supplement (Supplement). Government Code section 11344.1 requires OAL to provide for the publication of the California Regulatory Notice Register (Notice Register), a weekly publication containing state agency notices of proposed action to adopt, amend or repeal regulations, and other information pertaining to regulatory actions. These statutes also require OAL to provide free Internet access to the CCR and the Notice Register.

The purpose of this Request for Proposals (RFP) is to seek services from a qualified contractor to publish the CCR, to update the CCR weekly by issuing the CCR Supplement, to publish the weekly Notice Register, and to make available, on the Internet, free of charge, the full text of the CCR and Notice Register. Detailed information regarding the publication specifications for the CCR, the CCR Supplement, the Notice Register and the Internet CCR and Notice Register, and links to sample documents, may be found in [Section 3](#) of this RFP.

All interested parties are invited to submit written proposals under the terms and conditions specified in this Request for Proposals. The Office of Administrative Law intends to conduct a competitive procurement on behalf of the state of California which will accomplish its purposes with sole reference to the public interest. This solicitation will provide for full and fair competition in an environment where all proposers will be evaluated fairly and objectively on the same end objectives.

**The state of California will not pay the contractor for services rendered under the CCR publication contract.** The state will grant to the contractor the exclusive right to publish and use the Official California Code of Regulations (excluding Title 24) and the California Regulatory Notice Register, to provide the CCR and Notice Register to third parties in whatever form and by whatever means it desires, and to license the publication of the CCR and Notice Register to other publishers, subject to the licensing and royalty provisions of the CCR publication contract, for the term of the contract under the conditions specified in the contract. The contract shall begin January 1, 2011 and have a term of three years, with two optional 1-year extensions.

## 1.2. Scope of This RFP/Caution to Bidders

This solicitation is being conducted pursuant to the requirements of the California Public Contract Code. This RFP contains all requirements for the submission of proposals and specifies the documents or materials to be included with a proposal. This RFP establishes rules governing the competition for the CCR publication contract, and specifies the responsibilities of a successful bidder before and after contract start date.

If a bidder expects to be afforded the benefits of consideration for the CCR publication contract, the bidder must take the responsibility to:

- Carefully read the entire RFP;
- If clarification is necessary, ask appropriate questions in the time frame and manner established by this RFP;
- Submit all required responses, including all required attachments completed to the best of the bidder's ability, by the required date(s) and time(s); and
- Make sure that all procedures and requirements of the RFP are accurately followed and appropriately addressed.

### **1.3. Terminology/Acronyms**

For purposes of this RFP, the terms "contractor" or "publisher" are used when describing the responsibilities of the contractor awarded the CCR publication contract. The terms "proposer" or "bidder" are used to refer to a contractor that submits a proposal in response to this Request for Proposals. The acronyms listed below have the meaning specified:

<b>Acronym</b>	<b>Meaning</b>
APA	Administrative Procedure Act
BSC	Building Standards Commission
CCR	California Code of Regulations
CD-ROM	Computer Disk-Read Only Memory
DFEH	Department of Fair Employment and Housing
DGS	Department of General Services
DVBE	Disabled Veteran Business Enterprise
OAL	Office of Administrative Law
PDF	Portable Document Format
PRA	Public Records Act
RFP	Request for Proposals
SOS	Secretary of State

### **1.4. Notice to Persons with Disabilities**

To comply with the nondiscrimination requirements of the Americans with Disabilities Act, it is the policy of the state of California to make every effort to ensure that its programs, activities and services are available to all persons, including persons with disabilities. For persons with a disability needing reasonable accommodation to participate in the procurement process, or for persons having questions regarding reasonable accommodation for the procurement process, please contact the person listed below.

### **1.5. OAL Contact Information**

The contact person for all questions, comments, responses or protests to this RFP is:

Linda C. Brown, Deputy Director  
Office of Administrative Law  
300 Capitol Mall, Suite 1250  
Sacramento, California 95814  
(916) 323-8915 [lbrown@oal.ca.gov](mailto:lbrown@oal.ca.gov)

## 2. RULES GOVERNING COMPETITION

### 2.1. *Summary*

The purpose of Section 2 is to specify key action dates (including the deadline for proposal submission), to establish rules governing the competition, to specify requirements for the submission of proposals, to describe the process OAL will use to evaluate and score all proposals, and to provide information about the award of contract and other issues related to the competition.

### 2.2. *Key Action Dates*

EVENT	DATE
Request for Proposals Issued:	April 30, 2010
Optional Bidder's Conference:	1:30 p.m., June 10, 2010
<b>Final Date for Proposal Submission:</b>	<b>5:00 p.m., July 30, 2010</b>
Notice of Intent to Award:	August 31, 2010
Anticipated Award Date:	September 10, 2010

### 2.3. *Bidder's Conference*

An optional bidder's conference will be held on June 10, 2010, at 1:30 p.m., at the Office of Administrative Law, 300 Capitol Mall, 12<sup>th</sup> Floor, Sacramento, California, in the OAL Training Room in Suite 1210. During the conference, potential bidders will be afforded the opportunity to meet with OAL personnel and discuss the content of this RFP and the procurement process. Persons wishing to attend the optional bidder's conference are asked to notify the contact person listed in Section 1 no later than 5:00 p.m. on June 3, 2010.

Prior to the conference, prospective bidders may submit written questions to the contact person identified in Section 1. OAL will accept oral questions during the conference and will make a reasonable attempt to provide answers prior to the conclusion of the conference. The bidder's conference is for informational purposes only and no statement by OAL or by any contractor shall modify any of the requirements of this RFP. No transcript will be made available of the bidder's conference.

### 2.4. *Proposal Submission Requirements*

Proposals shall be submitted in a sealed package or envelope addressed to the contact person listed in Section 1 of this RFP and marked "**CONFIDENTIAL**." The proposal must be received by OAL no later than 5:00 p.m. on July 30, 2010.

Proposals are to be submitted in two volumes as follows.

#### **Volume 1: Response to Minimum Qualifications**

- Cover Letter (signed by a person authorized to bind the contractor)
- Response to Minimum Qualifications (see [Section 4](#))
- Required Attachments (see [Section 6](#))

The contractor must submit one original and two copies of Volume 1, with the exception that only one copy is needed of the work samples described in Section 4.3.2. Volume 1 must include a cover letter signed by a person who is authorized to bind the contracting firm.

### **Volume 2: Compensation Offer Form**

- The Compensation Offer Form is in [Section 6](#) “Required Attachments.”  
**IMPORTANT: VOLUME 2 MUST BE SEALED SEPARATELY FROM VOLUME 1 AND CLEARLY LABELED AS “VOLUME 2” OR “COMPENSATION.”** The envelope or package containing Volume 2 must be of a nature that fully obscures readability of the text inside. Proposers should be sure that no compensation information is shown anywhere in their proposal other than in the sealed Volume 2. This is because Volume 2 will be opened only after Volume 1 has been evaluated and scored for all proposals. The inclusion of compensation information in any other place in a proposal may result in rejection of that contractor’s proposal.

The contractor must submit one original of Volume 2, sealed separately from Volume 1 and clearly labeled “Volume 2” or “Compensation.”

With the exception of the sample work materials or sample Internet links referred to in [Section 4](#), proposals shall be on 8½ by 11 inch paper. The use of expensive binding, etc. is not necessary or desired. Emphasis should be placed on conformance to the solicitation instructions, responsiveness to the solicitation requirements, and on completeness and clarity of content. Costs incurred by the contractor associated with the development or submission of a proposal or in anticipation of award of the agreement, are entirely the responsibility of the contractor and shall not be charged to the state of California.

Please note:

- Proposals received after the deadline will not be considered.
- Proposals should provide straightforward and concise descriptions of the proposer’s ability to satisfy the requirements of this RFP, and must include all documents identified in [Section 6](#) as “Required Attachments.”
- The proposal must be complete and accurate. Omissions, inaccuracies or misstatements may be cause for rejection of a proposal.

***By submitting a proposal in response to this RFP, the proposer acknowledges that they have carefully read and understand the RFP and the attached contract, and that they agree to provide the required services and products and be bound by all terms if awarded the contract.*** The provisions in the state's contract, including but not limited to the scope of work, General Terms and Conditions and the state of California Contractor Certification Clauses, are non-negotiable. Proposals containing modifications or alternatives to such provisions will be deemed counterproposals and will be rejected as non-responsive.

### **2.4.1. Modification, Withdrawal, Incomplete Proposals**

A proposer may modify a proposal after its submission by withdrawing the original proposal and submitting a new proposal prior to the Final Date for Proposal Submission (see “Key Action Dates, above”). A proposer may withdraw its proposal by submitting a written withdrawal request to OAL, signed by the proposer or an authorized agent. A proposer may thereafter submit a new proposal prior to the Final Date for Proposal Submission. Proposals may not be withdrawn without cause after the proposal submission deadline.

A proposal may be rejected if it is conditional or incomplete, or if it contains substantial irregularities of any kind. OAL may reject any or all proposals, or may waive an immaterial deviation in a proposal. OAL’s waiver of an immaterial deviation shall in no way modify the RFP or excuse the proposer from full compliance with all requirements if awarded the contract.

### **2.5. Addenda**

OAL may modify the RFP on or before June 30, 2010 by issuing an addendum to all persons on the CCR Distribution List and posting the addendum on the OAL website. All such addenda will be numbered consecutively and identified by date. Any addenda to this RFP shall become part of this RFP and part of any contract resulting from this RFP.

### **2.6. Error or Ambiguity in RFP Documents**

Any person who discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP is asked to immediately notify OAL of such error. If this RFP contains an error known to a bidder, or an error that reasonably should have been known, the bidder shall bid at its own risk. If the bidder fails to notify OAL of the error prior to the date fixed for submission of bids, and is awarded the contract, the state of California shall be held harmless for any effect of such an error or its later correction.

### **2.7. False or Misleading Statements**

Proposals which contain false or misleading statements may be rejected. If, in the opinion of OAL, such information was intended to mislead the state in its evaluation of the proposal, and the attribute, condition or capability is a requirement of the solicitation, it will be the basis for rejection of the proposal.

### **2.8. Evaluation of Proposals**

#### **2.8.1. Evaluation Committee**

Proposals will be reviewed, evaluated and scored by an Evaluation Committee composed of OAL staff appointed by the Director of OAL. The Evaluation Committee will base its evaluation solely on the information submitted in the proposal. However, the Evaluation Committee may choose to make use of the confidential advice of outside private counsel and/or counsel employed by other state agencies.



### 2.8.2. Evaluation Stages

Proposals must be submitted in two volumes; Volume 1 (Response to Minimum Qualifications) and Volume 2 (Compensation Offer Form, sealed separately from Volume 1). The Evaluation Committee will evaluate each of the volumes separately as follows:

- 1) Volume 1 will be opened, evaluated, and scored first. There are two steps in the Volume 1 evaluation. The first step is an administrative review of the contents of Volume 1 which results in a pass/fail. The second step is a substantive evaluation of Volume 1 by the Evaluation Committee. The Evaluation Committee will review, analyze and score Volume 1 of all proposals based on the requirements specified in Section 4, “Minimum Qualifications for Proposers.” The scoring system is described in the section below titled “Evaluation and Scoring.” Prior to completing its evaluation of Volume 1, the Evaluation Committee may require a product demonstration as described in Section 2.8.3.
- 2) After the Evaluation Committee has completed its review and assigned points to Volume 1 for all proposals (and a product demonstration, if required, has been completed), Volume 2 will be opened and scored.
- 3) The Evaluation Committee will determine a total score for each proposal by adding the scores from both the Volume 1 and Volume 2 evaluation processes.
- 4) Upon completion of the steps described above, OAL, if satisfied, will award the contract to the contractor with the highest total score. OAL may reject all proposals if none are considered in the best interest of the state.

### 2.8.3. Product Demonstration

OAL may require contractors to provide a demonstration of their capabilities to meet all requirements of the CCR publication contract. The demonstration, if required by OAL, is intended to afford the state the ability to verify the claims made by the contractor in its proposal and to corroborate the evaluation of the contractor’s proposal. If such a demonstration is required and the contractor fails to demonstrate to OAL’s satisfaction that the claims made by its proposal are, in fact, true, OAL may deem the contractor’s proposal non-responsive. OAL reserves the right to determine whether or not a contractor has successfully passed a demonstration.

If OAL determines that a demonstration is necessary, the location of the demonstration will be determined by the contractor, although demonstration within California is preferred. Demonstrations outside California will be attended only if the contractor agrees to cover all reasonable expenses including transportation and lodging.

### 2.8.4. Evaluation and Scoring

**Proposals will be evaluated and scored according to the “Evaluation Criteria” and “Scoring Methodology” contained in sections [2.8.5](#) and [2.8.6](#) of this RFP.** The Evaluation Criteria specify the total number of points available for each requirement. Using the Scoring Methodology, the Evaluation Committee will determine the percentage of points to be awarded to each requirement, and multiply that percentage by the total number of points available for that requirement to determine the score. Numbers will be rounded up or down to a full digit (e.g., 4.5 will be rounded up to 5, and 4.4 will be rounded down to 4).

2.8.5. EVALUATION CRITERIA	
<b>ADMINISTRATIVE REQUIREMENTS</b> <ul style="list-style-type: none"> <li>Received by Deadline</li> <li>Package or Envelope Marked "Confidential"</li> <li>Original plus 2 Copies of Volume 1 (1 Copy of Work Samples)</li> <li>Signed Original Cover Letter</li> <li>Required Attachments Included</li> <li>Volume 2 Sealed Separately from Volume 1</li> </ul>	(circle one)
	YES/NO
	YES/NO
	YES/NO
	YES/NO
	YES/NO
	YES/NO
<b>PASS/FAIL</b>	
<b><u>SCORED ELEMENTS</u></b>	<b>Maximum points available</b>
<b>BUSINESS REQUIREMENTS</b> (See <a href="#">RFP Section 4.2</a> ) <ul style="list-style-type: none"> <li>FINANCIAL CAPABILITY</li> <li>PLACE OF PERFORMANCE</li> <li>SUBCONTRACTORS</li> </ul>	5 points
<b>EXPERIENCE</b> (See <a href="#">RFP Section 4.3</a> ) <ul style="list-style-type: none"> <li>EXPERTISE AND STAFFING</li> <li>WORK SAMPLES</li> <li>CUSTOMER REFERENCES</li> </ul>	15 points
<b>IMPLEMENTATION, PERFORMANCE AND TRANSITION PLAN</b> (See <a href="#">RFP Section 4.4</a> )	20 points
<b>ACCURACY PLAN</b> (See <a href="#">RFP Section 4.5</a> )	10 points
<b>AVAILABILITY AND OPERATIONAL RECOVERY PLAN</b> (See <a href="#">RFP Section 4.6</a> )	5 points
<b>INTERNET CCR PLAN</b> (See <a href="#">RFP Section 4.7</a> )	15 points
<b>COMPENSATION OFFER</b> (See <a href="#">RFP Section 4.8</a> )	30 points
<b>MAXIMUM POSSIBLE POINTS</b>	<b>TOTAL 100 points</b>

\*see next page for Scoring Methodology

## 2.8.6. SCORING METHODOLOGY

<b>% of Points Awarded</b>	<b>Interpretation</b>	<b>General Basis for Point Assignment</b>
<b>0%</b>	<b>Inadequate</b>	Fails to address the requirement(s) being scored or proposer does not describe any experience related to the requirement(s). The omission(s), flaw(s), or defect(s) are significant and unacceptable.
<b>30%</b>	<b>Barely Adequate</b>	Minimally addresses the requirement(s) being scored, but one or more major considerations of the requirement(s) are not addressed, or addressed in such a limited way that it results in a low degree of confidence in the proposed solution.
<b>70%</b>	<b>Adequate</b>	Proposal response (i.e. content and/or explanation offered) is adequate to meet OAL's needs, requirements or expectations. Any omission(s), flaw(s), or defect(s), are inconsequential and acceptable.
<b>80%</b>	<b>Good</b>	Proposal response fully addresses the requirement(s) being scored. Good degree of confidence in the contractor's response or proposed solution. Minimal weaknesses are acceptable.
<b>90%</b>	<b>Excellent</b>	Proposal response fully meets OAL's needs, requirements or expectations with a high degree of confidence in the contractor's response or proposed solution. Proposer offers one or more enhancing feature, method or approach exceeding basic expectations.
<b>100%</b>	<b>Exceptional</b>	All requirements are addressed with the highest degree of confidence in the contractor's response or proposed solution. The response exceeds the requirements in providing a superior experience, a creative approach, or an exceptional solution.

### **2.8.7. Tied Bids**

In the event of a tied score, the result will be determined by coin toss.

## **2.9. *Award and Protest***

### **2.9.1. Notice of Intent to Award Contract**

Notice of Intent to Award the CCR Publication Contract will be sent to all bidders and every person on the CCR Distribution List, displayed prominently in a public place in the Office of Administrative Law, and posted on the OAL website (<http://www.oal.ca.gov/>) five (5) working days prior to awarding the agreement.

### **2.9.2. Award of Contract**

After scoring all proposals, OAL will either award the contract to the contractor whose proposal received the highest point count, or reject all proposals.

### **2.9.3. Protest**

A proposer, prior to Award of Contract, may protest the Notice of Intent to Award on the grounds that the protesting proposer would have been awarded the contract if OAL had correctly applied the evaluation standard established by the RFP, or if OAL had followed the scoring methods set forth in the RFP. To file a protest, the proposer must send a letter to OAL prior to the date set for award of contract specified in the Notice of Intent to Award the contract. The original shall be sent to the attention of the contact person listed in Section 1, and a copy shall be sent to the Department of General Services, Office of Legal Services, 707 Third Street, 7<sup>th</sup> Floor, Suite 7-330, West Sacramento, CA 95605. The letter shall state that the proposer protests the award of the CCR publication contract and specify in detail the proposer's basis for the protest.

If any proposer files such a protest, OAL will delay awarding the contract until the protest has either been withdrawn or the Department of General Services has decided the matter. It is recommended that any protest be sent by certified or registered mail.

## **2.10. *Confidentiality/Disposition of Proposals***

The contents of all proposals, correspondence, agenda, memoranda, working papers, or any other medium which discloses any aspect of a bidder's proposal shall be held in the strictest confidence until OAL issues the Notice of Intent to Award the contract.

Upon issuance by OAL of the Notice of Intent to Award the contract, all documents submitted in response to this RFP will become the property of the state of California, and will be regarded as public records under the California Public Records Act (PRA) (Government Code section 6250 et seq.) and subject to review by the public. Proposers may mark proprietary information contained in their proposal "confidential" or "proprietary," but proposers should be aware that merely marking a document "confidential" or "proprietary" will not necessarily keep that document from being released pursuant to the Public Records Act unless the document is subject to the exemption in Government Code

section 6254.15 for trade secrets, subject to another PRA exemption, or a court has ordered OAL not to release the document. In the event that OAL concludes it is legally compelled to disclose information the contractor has marked as “confidential” or “proprietary,” OAL will provide the contractor with prompt notice of that conclusion so that the contractor may seek a protective order or other appropriate remedy.

### 3. SCOPE OF WORK/REQUIRED PUBLICATION SERVICES

#### 3.1. *Summary*

The purpose of Section 3 is to specify the publication services the contractor must perform, and to specify other services and products the contractor must provide. The key responsibilities of the contractor are to:

1. Publish the Official California Code of Regulations (CCR),
2. Update the CCR weekly by publishing the CCR Supplement,
3. Publish the California Regulatory Notice Register once each week,
4. Provide free Internet access to the California Code of Regulations and the California Regulatory Notice Register, and
5. Provide OAL, county clerks, and depository libraries with publications and services.

**By submitting a proposal in response to this RFP, the contractor acknowledges the importance of and commits to performing each requirement identified in Section 3 if awarded the CCR publication contract.**

#### 3.2. *The Official California Code of Regulations*

##### 3.2.1. California Regulatory Actions

Each year, California state agencies propose thousands of regulations which, when adopted, affect virtually every economic activity and every segment of the California public. The vast majority of this regulatory activity is driven by the enactment of newly adopted, amended or repealed state and/or federal statutes.

The Administrative Procedure Act (“APA”) establishes procedural and substantive requirements for the adoption, amendment or repeal of these state regulations. Before proposed regulations can become effective, they must generally be submitted to OAL for review and approval or disapproval pursuant to standards set forth in the APA. OAL files approved regulatory actions with the Secretary of State virtually every business day. Once approved by OAL and filed with the Secretary of State, a regulation is published in the **Official California Code of Regulations**. A duly adopted and published regulation has the force of law.

##### 3.2.2. Processing of Regulatory Actions for Publication

When a state agency submits a proposed regulatory action to OAL for review, OAL assigns a unique identification number to that regulatory action. Government Code section 11341 mandates that this number must be sufficient for a member of the public to identify and track that regulation with OAL and the adopting agency. This identification number, known as the OAL file number, is created using the year, month and day, and intake status. For example, OAL file number 2009-1209-03 was submitted on December 9, 2009, and was the third regulatory action submitted on that date. All regulatory actions sent by OAL to the publisher are identified using the OAL file number.

If OAL approves a proposed regulatory action, OAL files that regulation with the Secretary of State, and sends a copy endorsed by the Secretary of State to the publisher, using overnight delivery at the publisher's expense. OAL attaches a "Report to Publisher" to each regulation containing the OAL file number, publication instructions and contact information for any questions relating to the publication of that regulatory action. Samples of these attached reports may be found [here](#).<sup>1</sup>

In 2009, OAL sent the publisher approximately 575 approved regulatory actions that affected more than 3100 individual sections of the CCR. In 2006, OAL sent the publisher approximately 650 regulatory actions that affected more than 4500 individual sections of the CCR. These years were selected to show a recent range of typical publication activity, but OAL has no ability to forecast either the numbers or the complexity of regulatory actions submitted to OAL by more than 200 state agencies. Sample regulatory actions showing the use of underline and strikeout to indicate changes to the existing text of the CCR, may be found [here](#)<sup>2</sup> and [here](#).<sup>3</sup>

Using the regulations OAL has filed with the Secretary of State during each calendar week, the publisher creates and distributes the weekly California Regulatory Code Supplement to update the CCR. The length and content of each CCR Supplement varies greatly depending on the number of regulations adopted and whether the supplement includes changes to the tables of contents. A sample CCR Supplement may be found [here](#).<sup>4</sup>

### **3.2.3. About the Official California Code of Regulations**

The Official California Code of Regulations currently consists of 28 Titles in three-ring binders containing more than 25,000 pages (8½ by 11 inches, three-hole punched). (Title 24, the Building Standards Code, is published separately by the Building Standards Commission. Please see section [3.2.11](#) for a special note about Title 24.)

#### **3.2.3.1. CCR Titles**

The CCR is currently divided into the following 28 titles:

1. General Provisions
2. Administration
3. Food and Agriculture
4. Business Regulations
5. Education
6. Governor
7. Harbors and Navigation
8. Industrial Relations
9. Rehabilitative and Developmental Services
10. Investment
11. Law

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<sup>1</sup> <http://www.oal.ca.gov/res/docs/CCR%20Proposal%20Docs%20to%20Post/SampleRepToPub.pdf>

<sup>2</sup> <http://www.oal.ca.gov/res/docs/CCR%20Proposal%20Docs%20to%20Post/SampleTextMedicalBd.pdf>

<sup>3</sup> <http://www.oal.ca.gov/res/docs/CCR%20Proposal%20Docs%20to%20Post/SampleRegARB.pdf>

<sup>4</sup> [http://www.oal.ca.gov/res/docs/CCR%20Proposal%20Docs%20to%20Post/CCR\\_Supplement.pdf](http://www.oal.ca.gov/res/docs/CCR%20Proposal%20Docs%20to%20Post/CCR_Supplement.pdf)

12. Military and Veterans Affairs
13. Motor Vehicles
14. Natural Resources
15. Crime Prevention and Correction
16. Professional and Vocational Regulations
17. Public Health
18. Public Revenues
19. Public Safety
20. Public Utilities and Energy
21. Public Works
22. Social Security
23. Waters
24. Building Standards (***NOTE: Title 24 is not included in the CCR contract***)
25. Housing and Community Development
26. Toxics
27. Environmental Protection
28. Managed Health Care

### **3.2.3.2. Organization of the CCR**

The formal hierarchical organization of the CCR varies slightly among titles but the typical structure is currently:

1. Title
2. Division
3. Chapter
4. Article
5. Section

### **3.2.3.3. Authority and Reference Citations**

Government Code section 11344(d) mandates that each regulation section be printed together with the relevant authority and reference citations. The authority and reference citations, which are prepared by the rulemaking agency and reviewed and approved by OAL, identify the statute(s) which allow the agency to engage in rulemaking and identify the statute(s) being implemented, interpreted, or made specific by that regulation section.

### **3.2.3.4. History Notes**

A history note or series of history notes follows the text of each regulation section in the CCR. Using instructions from OAL, the publisher prepares routine history notes specifying the nature of the action regarding the section, the date the action was filed with the Secretary of State, the operative date of the action, and the number of the California Regulatory Code Supplement in which the action was published. Some older regulations may have a history note only at the chapter or article level; however the current practice is to print history notes following each section. The format for routine history notes may be found [here](http://www.oal.ca.gov/res/docs/CCR%20Proposal%20Docs%20to%20Post/History_Note_Template.pdf).<sup>5</sup> OAL provides the publisher with custom history notes when necessary.

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<sup>5</sup> [http://www.oal.ca.gov/res/docs/CCR%20Proposal%20Docs%20to%20Post/History\\_Note\\_Template.pdf](http://www.oal.ca.gov/res/docs/CCR%20Proposal%20Docs%20to%20Post/History_Note_Template.pdf)



### **3.2.4. CCR Master Database**

The contractor shall maintain the Official California Code of Regulations in an electronic database, which for purposes of this RFP shall be referred to as the “Master Database.” To ensure that all CCR products accurately reflect the Official CCR content, the Master Database must be the source for all hard copy text and electronic products as well as the source for the contents of the Internet CCR.

Prompt and accurate updating of the CCR Master Database is a key component of the CCR publication contract. The contractor shall update the Master Database as soon as feasible after OAL provides the contractor with regulations that have been endorsed by the Secretary of State, preferably within 15 days but in no event longer than 30 days after OAL delivers the regulation text. The text of regulations and all other items in the Master Database shall be subject to inspection, revision, and correction by OAL.

The contractor shall maintain the Master Database in a secure environment and shall establish an Availability and Operational Recovery Plan to protect the integrity and availability of the Master Database against the risk of attacks that may cause nuisance, significant interruptions of service or unauthorized changes to the Master Database content. At a minimum, the contractor’s Plan shall include upgrading software and installing software patches and updates as often as necessary to address security risks; removal of unnecessary software applications that run with administrative privileges or that receive packets from the network; use of an external firewall; establishment of remote administration security; restricted server scripts; web server shields with packet filtering, and education of personnel working with the Master Database.

The CCR Master Database shall consist of material not subject to any claims of ownership or copyright, except those of OAL on behalf of the State of California. The CCR Master Database shall include tables of contents, headings and captions, regulation text including all charts, graphs, tables, illustrations, forms etc. designated by OAL for publication, authority and reference citations, and history notes.

Upon completion or termination of the contract, the contractor shall provide OAL with a useable electronic database containing the data from the Master Database. The data must be provided in a standard (free from any proprietary formatting or codes) portable and easily processed or converted format such as XML or a relational database capable of extraction via standard SQL queries. The contractor shall be responsible for all costs associated with transferring the data to OAL in a usable form upon completion or termination of the CCR publication contract.

### **3.2.5. Publication Specifications for the Official CCR**

The contractor shall publish the Official CCR on 8½ by 11 inch pages, loose leaf, in a form which assures that pages can be easily inserted into standard three-ring binders. Text paper shall be 20 lb. standard weight with a minimum of 30% postconsumer recycled content. Regulation text shall be printed in black, with font size no smaller than that used in the Official CCR in 2009. The contractor may offer binders for sale to subscribers but shall not

require any subscriber to purchase binders. Sample excerpts of the Official CCR are available from [title 8](#)<sup>6</sup> and [title 13](#).<sup>7</sup>

The contractor shall accurately and legibly print regulations as filed with the Secretary of State, including all charts, graphs, tables, illustrations, notes, graphics, etc.

Each volume of the Official CCR shall contain the following:

1. Title Page;
2. A page listing hierarchy for that title with a nomenclature cross-reference for the pre-1990 hierarchy;
3. Table of contents for that title listing the headings of each Division, Chapter, Subchapter, Group and Subgroup where applicable, and Article;
4. Division level table of contents preceding each division within a title;
5. Complete text of regulations, including all narrative text, forms, appendices, prefaces, footnotes, endnotes, tables, formulas, graphics, illustrations or other regulatory material designated by OAL for publication;
6. Authority and reference citations for each section;
7. History notes for each section;
8. The Register number and publication date of the last revision on each page to reflect the last date any item on that page was affected by a regulatory action;
9. Such other materials as OAL may direct to be published.

In addition to the items listed above, the Official CCR may, in the contractor's sole discretion, also include annotations, appropriate research references, or other editorial material created by the contractor, to which the contractor may retain all intellectual property rights.

The format of the Official CCR is subject to OAL approval prior to initial publication. The contractor must submit any future format changes to the Director of OAL for approval prior to implementing any changes.

### **3.2.6. Publication Specifications for the CCR Supplement**

The contractor shall compile the regulations filed during each calendar week, and use this compilation to publish the weekly California Regulatory Code Supplement. Using the underline (or italics) and strikeout in regulation text to discern changes to the existing text of the CCR, the publisher must integrate the newly adopted, amended or repealed regulations into the CCR and publish the resulting regulatory changes in the weekly CCR supplement. This process involves, on a daily basis, the contractor engaging in extensive editorial analysis and preparation, conducting a comparison to the existing regulatory language, initiating dialogue with OAL regarding any discrepancies, creating routine History Notes, indexing, annotating, and creating additional or point pages in the ongoing content set as necessary for weekly updates.

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<sup>6</sup> <http://www.oal.ca.gov/res/docs/CCR%20Proposal%20Docs%20to%20Post/Title8text.pdf>

<sup>7</sup> <http://www.oal.ca.gov/res/docs/CCR%20Proposal%20Docs%20to%20Post/Title13text.pdf>

For sections that are being repealed, the contractor shall add the word (Repealed) to the heading for the repealed section. If other repealed section(s) appear on a page being revised in that issue of the CCR Supplement, and the heading of the other repealed section(s) are missing the word (Repealed), the contractor shall add (Repealed) to that heading.

A sample CCR Supplement may be found [here](#).<sup>8</sup> (NOTE: The “Digest of New Regulations” included with this sample is an editorial enhancement created by the current publisher.)

The contractor shall number the CCR Supplement by week and year (e.g. Register 42, 2009 contains regulations filed with the Secretary of State during the 42<sup>nd</sup> week of 2009); and shall publish the weekly CCR Supplement preferably within 15 days but in no event longer than 30 days after OAL sends regulation text for publication. The Supplement shall match the format requirements stated above for the Official CCR. The CCR Supplement shall be distributed to subscribers accompanied by instructions adequate to inform subscribers how to replace updated pages of the Official CCR. The contractor is responsible for distributing the CCR Supplement on a timely basis to subscribers for all full sets, subscribers to individual title(s) or subscribers to any other product iteration offered by the publisher that are affected by the weekly updates.

### **3.2.7. Publication Specifications for Tables of Contents**

#### **3.2.7.1. Master Table of Contents**

The contractor shall publish a Master Table of Contents with a complete listing by heading of all regulations in all titles (excluding Title 24) by Title, Division, Chapter, Subchapter, Group and Subgroup where applicable, and Article. The contractor shall update the Master Table of Contents quarterly to reflect regulations that were added, amended or repealed during the previous calendar quarter, and distribute any revised pages, accompanied by instructions adequate to inform subscribers how to replace the updated pages.

#### **3.2.7.2. Division Level Table of Contents**

Each Division of the CCR shall be preceded by a Division Level Table of Contents for that Division listing the headings of each Chapter, Subchapter, Group and Subgroup where applicable, Article and Section. The contractor shall update the Division Level Tables of Contents quarterly to reflect regulations that were added, amended or repealed during the previous calendar quarter, and distribute any revised pages, accompanied by instructions adequate to inform subscribers how to replace the updated pages, except that if regulatory material filed by OAL with the Secretary of State includes entire new chapters or entire new articles, the contractor shall distribute a revised Division level Table of Contents (or revised pages in the Division Level Table of Contents) when it publishes the new chapter or article.

### **3.2.8. Publication Specifications for the Master Index**

The contractor shall create and publish a Master Index to which the contractor may retain all intellectual property rights. The Master Index shall include a Table of Statutes to

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<sup>8</sup> [http://www.oal.ca.gov/res/docs/CCR%20Proposal%20Docs%20to%20Post/CCR\\_Supplement.pdf](http://www.oal.ca.gov/res/docs/CCR%20Proposal%20Docs%20to%20Post/CCR_Supplement.pdf)

Regulations, listing all of the California statutes cited in the Authority and Reference notes following each section of the CCR. The Master Index shall be updated no less than annually.

The Master Index may, in the contractor's sole discretion, include appropriate research references, annotations or other editorial material to which the contractor may retain all intellectual property rights. The title page of the Master Index shall indicate that the Master Index has not been reviewed by the Office of Administrative Law and is not part of the Official California Code of Regulations. The contractor shall publish the Master Index no later than 180 days after the start date of the CCR publication contract.

The contractor may copyright the Master Index. If the contractor declines to obtain a copyright on its own behalf, the contractor shall obtain a copyright in the name of OAL on behalf of the State of California. All expenses of obtaining such copyright, either on behalf of the contractor or OAL, shall be the responsibility of the contractor.

### **3.2.9. Publication Specifications for the CD-ROM CCR**

The contractor shall publish the CCR on CD-ROM monthly at a minimum. The CD-ROM CCR shall contain all elements of the Official CCR and shall accurately reflect the complete contents of the Official CCR. The CD-ROM CCR may, in the contractor's sole discretion, also include other appropriate research references, annotations or other editorial material to which the contractor may retain all intellectual property rights.

### **3.2.10. Subscription Information**

According to the current publisher, its subscriber base has included California state agencies and courts, attorneys, regulated professions and businesses including construction companies, hospitals and medical professionals, tax professionals, human resource departments, environmental compliance officers and mobile home parks.

Under the [current contract](#),<sup>9</sup> in addition to an annual license fee, the publisher pays OAL a royalty of 6% on "net revenues."<sup>10</sup> A list of all royalty payments OAL has received to date under the current CCR contract may be found [here](#).<sup>11</sup>

In addition to selling full sets of the CCR in hardcopy and electronic formats, and licensing all or part of the CCR to other publishers, the contractor may, in its sole discretion, elect to additionally publish any segments or compilations of the CCR for sale as separate units, in any topic area or other grouping, and in any format. A listing of the permutations and compilations the current publisher offers may be found at <http://www.barclaysccr.com/>.

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<sup>9</sup> [http://www.oal.ca.gov/res/docs/ccr\\_contract\\_2006-2010/CCR\\_Contract\\_2006-2010.pdf](http://www.oal.ca.gov/res/docs/ccr_contract_2006-2010/CCR_Contract_2006-2010.pdf).

<sup>10</sup> The CCR contract defines "net revenues" to mean all sales proceeds less returns, discounts refunded to the customer, and, if not charged separately but included in the sales price, sales taxes, transportation and handling, and in addition, all revenues received from licenses to third parties (including affiliated companies) without any reduction.

<sup>11</sup> [http://www.oal.ca.gov/res/docs/CCR%20Proposal%20Docs%20to%20Post/Royalty\\_payments.pdf](http://www.oal.ca.gov/res/docs/CCR%20Proposal%20Docs%20to%20Post/Royalty_payments.pdf)

### **3.2.11. Title 24 Explanatory Note**

Title 24 is not included in the CCR publication contract. Under California law, title 24 falls under the jurisdiction of the Building Standards Commission (BSC), not OAL. In order to foster transparency in government and avoid confusion stemming from the absence of title 24 from the Internet version of the CCR, the publisher of the CCR shall list title 24 in the list of CCR titles in the Internet CCR, accompanied by a statement that title 24 is published separately by the BSC and a link to the BSC website at <http://www.bsc.ca.gov/default.htm>.

## **3.3. The California Regulatory Notice Register**

### **3.3.1. About the California Regulatory Notice Register**

Government Code section 11344.1 requires OAL to publish the California Regulatory Notice Register (“Notice Register”) each week to inform the public of state agencies’ intent to engage in rulemaking and provide other important information pertaining to rulemaking. Proposers may view past issues of the Notice Register at [http://www.oal.ca.gov/Notice\\_Register.htm](http://www.oal.ca.gov/Notice_Register.htm).

A typical issue of the Notice Register varies from 25 to 60 pages, depending on the elements included. (One issue per year includes the Annual Rulemaking Calendar, which may be found [online](#).<sup>12</sup>)

The potential elements of the Notice Register in any given week are:

1. Notices of Proposed Regulatory Action
2. Summaries of approved regulations filed with the Secretary of State the previous week
3. Summaries of regulation decisions issued during the previous week and summaries of the reasons for OAL disapproval of a proposed regulation
4. Quarterly index of OAL regulation decisions
5. An agency’s request for review of an OAL disapproval decision, OAL’s response to the agency request for review, and the Governor’s decision
6. Underground regulation petitions and underground regulation determinations issued pursuant to Government Code section 11340.5
7. General Public Interest Notices
8. Petition decisions pursuant to Government Code section 11340.7
9. Periodic indices of regulations approved and filed with the Secretary of State
10. OAL announcements
11. The Annual Rulemaking Calendar

### **3.3.2. Publication Specifications for the Notice Register**

Each Friday, OAL will provide the publisher with the documents to be published in the next edition of the Notice Register, along with a title page and table of contents for that edition of the Notice Register. For purposes of this RFP, this document shall be referred to as the

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<sup>12</sup> [http://www.oal.ca.gov/2009\\_Rulemaking\\_Calendar\\_Office\\_of\\_Administrativ.htm](http://www.oal.ca.gov/2009_Rulemaking_Calendar_Office_of_Administrativ.htm)

Friday Draft. A sample Friday Draft may be found [here](#).<sup>13</sup> The contractor may elect to receive the Friday Draft in hardcopy or via electronic mail.

Using the Friday Draft, the contractor shall publish the Notice Register on the Friday that follows receipt of the Friday Draft. The Notice Register shall be printed on 8½ by 11 inch pages, three-hole punched, in a format of comparable quality to that in use in 2009. Text paper shall be 20 lb. standard weight with a minimum of 30% postconsumer recycled content. Text shall be printed in black; font size shall be no smaller than 10 point for text within paragraphs.

Once each year, as directed by OAL, the Notice Register shall include the Annual Rulemaking Calendar pursuant to Government Code section 11017.6. The contractor may distribute the Annual Rulemaking Calendar to subscribers on CD or other electronic format, but shall provide a print version upon request by any subscriber.

By 10:00 a.m. Pacific Time on every Friday, the contractor shall send a linked PDF copy of that day's issue of the Notice Register which fully and accurately reflects the print version of the Notice Register. (For purposes of this RFP, the term "linked PDF copy" means that each item listed in the online Table of Contents shall include a hyperlink so that clicking on that item in the Table of Contents takes the user to that notice in the text of the Notice Register.) The linked PDF copy of the Notice Register shall be sent by electronic mail to the person(s) designated by the Director of OAL to receive the linked PDF copy of the Notice Register.

### **3.4. The Internet CCR**

The contractor shall make available on the Internet and free to the public an electronic version of the CCR which is capable of accommodating a high number of simultaneous users comparable to the number of users who visited the Internet CCR in 2009. (Reports about the number of users per week during 2007-2009 may be found [here](#).<sup>14</sup>) The existing Internet CCR is at <http://ccr.oal.ca.gov/linkedslice/default.asp?SP=CCR-1000&Action=Welcome>.

The contractor shall ensure that the Internet CCR meets the following minimum requirements:

Accessible to Persons with Disabilities: The contractor shall ensure that the Internet CCR complies with applicable state and federal requirements for accessibility by persons with disabilities.

Content: The Internet CCR shall accurately reflect the content of the Official CCR. The contractor shall update the Internet CCR no later than 5:00 p.m. Pacific time on the next business day following the date it issues the weekly CCR Supplement. The Internet CCR shall accurately reflect the date on which the online CCR was last updated.

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<sup>13</sup> [http://www.oal.ca.gov/res/docs/Mock\\_Notice\\_Register\\_comp.pdf](http://www.oal.ca.gov/res/docs/Mock_Notice_Register_comp.pdf)

<sup>14</sup> [http://www.oal.ca.gov/res/docs/CCR%20Proposal%20Docs%20to%20Post/Weekly\\_CCR\\_Hits.pdf](http://www.oal.ca.gov/res/docs/CCR%20Proposal%20Docs%20to%20Post/Weekly_CCR_Hits.pdf)



Format: The Internet CCR shall include any necessary information, software, and technical support to make the complete CCR available, including graphics, tables, forms and any other material included in the Official CCR. The format shall be compatible with all Internet browser software and supported versions widely in use, including but not limited to Internet Explorer, Mozilla Firefox, Apple Safari and Google Chrome. The use of browser plugins or additional software (such as Adobe Flash, Microsoft Silverlight etc.) to view the database content is discouraged.

Division Level Links: The Internet CCR website shall contain a [list of state agency names and addresses](#)<sup>15</sup> comparable to the list provided in the existing Internet CCR. Each agency listing shall contain a permanent link (i.e. hard link that a user may save as a “favorite” or “bookmark” browser link) to the division level table of contents for that agency.

Data Integrity and Availability: The contractor shall make the Internet CCR available 24 hours a day, 7 days a week, excluding scheduled maintenance approved by OAL not to exceed 2 hours per week. The maximum allowable outage during times of disaster shall not exceed 5 working days. The contractor shall take steps to protect the integrity and availability of the Internet CCR against the risk of attacks that may cause nuisance, alter the data by unauthorized individuals, or significant interruptions of service. These steps shall include upgrading software and installing patches as often as necessary to address security risks; removal of unnecessary software applications that run with administrative privileges or that receive packets from the network; use of an external firewall; establishment of remote administration security; restricted server scripts; web server shields with packet filtering, and education of personnel working with the Internet CCR.

Accuracy: The contractor shall ensure that the Internet CCR accurately reflects the most recent weekly updated version of the Official CCR; that it is complete and contains all the material defined as part of the Official CCR; and that it is fit for publication on the Internet.

User-Friendly: Response time for a basic query must be comparable to response times for Internet legal research databases widely in use. The contractor shall ensure that users can view, print and search with reasonable ease of use. The contractor shall provide users with a universal search capability, including, but not limited to search by natural language, literal strings, and available use of Boolean operators. The contractor shall include a link to “FAQ” and/or “Help” on the home page to provide information to help users navigate the website. Linking commercial advertising is expressly prohibited without the prior written consent of the Director of OAL.

User Support: The contractor shall provide users with contact information to obtain customer assistance during regular business hours. The contractor shall respond to customer service inquiries within three business days of receiving a telephone call, written communication, or email.

Privacy: The contractor shall collect information adequate to report to OAL the number of visits to the website and length of session; however the contractor shall not collect

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<sup>15</sup> <http://ccr.oal.ca.gov/linkedslice/shared/help.asp?RS=GVT1.0&VR=2.0&SP=CCR-1000#agency>

personally identifiable information from any user's Internet session without the explicit, opt-in consent of the user. The contractor shall post a "privacy and conditions of use" page informing users about the collection and use of information regarding visits to the online CCR.

**Reports:** The contractor shall provide OAL with quarterly reports about usage of the Internet CCR during the prior calendar quarter. This report shall contain information about the number of users visiting the Internet CCR, including the number of visitors per week and average session length. The contractor shall also report the number and type of technical support queries for the Internet CCR, and provide a detailed explanation for any unanticipated interruption in service that exceeds one hour.

### **3.5. *Transmission of Material for Publication***

OAL will furnish to the contractor, at the contractor's expense, all regulations, notices and any other material designated for publication under the CCR publication contract. OAL will provide the contractor with paper copies of approved regulations each day that OAL files regulations with the Secretary of State. The contractor's method for collection and delivery shall provide for routine delivery the next business day after OAL files approved regulations with the Secretary of State. OAL will provide the contractor with approved notices once each week via electronic mail.

**PLEASE NOTE:** State agencies are not currently required to submit proposed regulations or notices in an electronic form. Transmission of regulation text to and from OAL is conducted by manual exchange of paper copies of documents. Notices for publication in the Notice Register are also currently submitted on paper. OAL is open to a proposal which provides flexibility to accommodate future technological changes that may streamline the work to be performed by OAL and the contractor, but OAL has no obligation to provide documents in an electronic form if such is not available from its own resources. OAL has the capability of providing certain elements of the Notice Register in formats other than PDF. These elements include summaries of approved regulations, summaries of regulation decisions, and the quarterly index of OAL decisions. The data for these elements is drawn from OAL's database, which is capable of exporting data in a selection of formats such as Excel, Rich Text Format, or Word. The contractor may specify a format other than PDF for these elements if OAL has the capability of providing the alternate format specified.

If desired, the contractor may receive an unofficial advance copy of proposed regulations prior to review and action by OAL, to be transmitted to the contractor at the contractor's expense. The contractor shall understand that these unofficial advance copies of regulations may be revised before filing or may never be filed with the Secretary of State, and may therefore not become part of the Official CCR.

By 10:00 a.m. on the business day following the date OAL takes action on any proposed regulatory action, OAL shall inform the contractor of such action by sending a Daily Action Report by electronic mail containing the following information:

1. OAL File Number
2. Title affected



3. Agency
4. OAL Action (Approval/Disapproval/Withdrawn)
5. Date of filing with Secretary of State

### **3.6. *Editorial Responsibilities and Accuracy***

The contractor shall ensure that regulation text, as published, accurately reflects the final regulation text as filed with the Secretary of State. The contractor shall ensure that notice text, as published, accurately reflects the text of the notice provided by OAL. All editorial work, including but not limited to proofreading, copyreading, correction, data preparation, formatting, and typographical composition work for the CCR and Notice Register, shall be performed at the contractor's expense.

The contractor shall not alter the text of regulations, notices or any other materials furnished by OAL for publication, except as expressly directed or authorized by OAL. If, at any time during the CCR publication contract, OAL determines that the publisher's editorial work is unsatisfactory, OAL will advise the publisher in writing and give the publisher a reasonable opportunity to correct any deficiencies. OAL defines a satisfactory level of accuracy as zero percentage (0%) of error rate as compared to the final regulation text filed with the Secretary of State or as compared to the text of notices provided by OAL.

The text of regulations and all data in the Master Database shall be subject to inspection, revision, and correction by OAL. Questions regarding the text of regulations or notices shall be promptly called to the attention of OAL. Inferior, unprofessional, or unsatisfactory work shall be rejected and returned to the contractor for prompt correction at no additional cost to the state or CCR subscribers. OAL's inspection, revision, and acceptance of work shall not be considered a waiver of the contractor's duty to correct, at the contractor's own expense, errors or defects subsequently discovered.

The contractor shall advise the Director of OAL in advance, in writing, of any proposed changes in the method or manner of performing editorial work covered by the CCR publication contract. The Director of OAL, or designated representative, and the contractor's representative shall, on the request of either party or at reasonable intervals, meet and confer to foster communication and cooperation between OAL and the contractor about the parties' rights and responsibilities under the CCR publication contract.

### **3.7. *Publications and Services for OAL***

The contractor shall provide OAL during the term of the CCR publication contract with the following publications and products, free of charge:

- Four (4) subscriptions to the Official CCR and CCR Supplement in hard copy;
- Three (3) subscriptions to the Master Table of Contents, in hard copy;
- Three (3) subscriptions to the Master Index, in hard copy;
- One (1) subscription to the CD-Rom version of the CCR;
- One (1) subscription to Annotated California Codes;
- Ten (10) copies of each issue of the California Regulatory Notice Register;
- One (1) complete replacement set of CCR binders annually;

- 1000 copies annually of a softbound book containing selected statutes and regulations specified by OAL as relevant to California rulemaking law. The format and content of the book shall be substantially similar to the [2010 Edition](#) of “California Rulemaking Law under the Administrative Procedure Act.”

Additionally, the contractor shall provide each employee of OAL, for the exclusive use by OAL, with free access to any online legal research database services provided by the contractor. The level of service provided shall include, at a minimum, access to cases and judicial materials, statutes and legislative materials, administrative law and regulations, analytical materials, and journals and law reviews for all states and the federal government; news and business materials available to basic national service subscribers, any other features available to subscribers that are reasonably relevant to OAL’s duties, and to new online legal research database services created during the term of the CCR publication contract that are reasonably relevant to OAL’s duties.

### **3.8. *Publications for County Clerks and Depository Libraries***

The contractor shall provide, free of charge, one (1) subscription of the hard copy version of the CCR (or, at the recipient’s option, subscription to CD-ROM or other mutually agreeable electronic format) to each of the fifty-eight (58) county clerks or their designees, pursuant to Government Code sections 11343.5 and 11344.2; and to each [state depository library](#),<sup>16</sup> pursuant to Government Code sections 14900-14912.

The contractor shall provide, free of charge, one (1) subscription of the hardcopy version of the Notice Register (or, at the recipient’s option, subscription to CD-ROM or other mutually agreeable electronic format) to [state depository libraries](#), pursuant to Government Code sections 14900-14912.

### **3.9. *Reports***

The contractor shall provide OAL with periodic reports regarding the content of the Official CCR. These reports are to be provided no less often than annually and shall contain the following information regarding the Official CCR:

- The number of regulation sections in existence at the end of the prior calendar year. This report shall specify the total number of active regulation sections and the total number of repealed regulation sections in each title, and in addition shall specify the total number of sections in all CCR titles combined.
- A tally of the number of regulations adopted, amended or repealed during the prior calendar year. This report shall specify the number of files sent by OAL for publication and the number of regulation sections that were adopted, amended or repealed during the period covered.
- A page count of the Official CCR for the prior calendar year. This report shall state the number of pages in each title and include the total number of pages for all titles.

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<sup>16</sup> [http://www.library.ca.gov/gps/gps\\_cal3.html](http://www.library.ca.gov/gps/gps_cal3.html)

## 4. MINIMUM QUALIFICATIONS FOR PROPOSERS

### 4.1. *Summary*

The purpose of Section 4 is to establish the requirements that a proposer must demonstrate to prove they have the ability and resources to perform the CCR publication contract.

**Proposals will be evaluated and scored on the requirements listed in this section.** The “Evaluation Criteria” in section [2.8.5](#) specifies the maximum number of points that may be awarded for each requirement. The “Scoring Methodology” in section [2.8.6](#) describes the approach OAL will use to award points for categories other than compensation. Compensation will be scored according to the methodology shown on the Compensation Offer Form in [Section 6](#).

OAL considers the most important factors in a successful partnership to be:

- Timely, accurate and professionally presented hard copy, electronic and Internet publication of the CCR, CCR Supplement and Notice Register;
- Consistency and synchronicity of the hard copy and Internet publications;
- Functionality and ease of use of the Internet version of the CCR;
- A professional, cooperative and close day-to-day working relationship between the contractor and the staff of OAL;
- Use of reliable up-to-date technology;
- Data protection, security, and system reliability;
- Positive impact on the people of California;
- Minimal impact on existing CCR and Notice Register subscribers.

### 4.2. *Business Requirements*

#### 4.2.1. Financial Capability

The proposer must demonstrate financial capability to fulfill the requirements of the CCR publication contract, including the ability to pay the damages specified in the Proposed Standard Agreement, Exhibit D (“Special Terms and Conditions”) in the event of non-performance. To satisfy this requirement the proposer shall submit a certified financial statement, including applicable notes, reflecting the contractor’s assets, liabilities, net worth, revenues, expenses, profit or loss, and cash flow for the most recent calendar year or most recent fiscal year; or, if a certified financial statement is not available, then either a reviewed or compiled statement from an independent accounting firm setting forth the same information required for the certified financial statement.

#### 4.2.2. Place of Performance

The proposer shall specify the locations at which work will be performed under the CCR publication contract. If work will be performed in more than one location, the proposer must specify the parts of the work to be performed at each location. Alternate locations for performing work that would be utilized in the event of a disaster or other interruption of business shall also be specified. For purposes of this requirement, the term “work” includes editorial services, publication of documents, distribution, customer service, and any other operation or procedure necessary to perform the obligations set forth in this RFP.

For any work to be performed in California, the proposer shall comply with all requirements of California law.

#### **4.2.3. Subcontractors**

The proposer must submit the names and addresses of any subcontractor the proposer intends to use and must specify the obligations to be performed by subcontract. If the proposer proposes to utilize a subcontractor for editorial services, the proposer must submit a list of personnel to be employed by the subcontractor for editorial services, a short resume or description of qualifications of key editorial personnel, and a summary of comparable work performed by that subcontractor.

During the contract, any changes in subcontractors or the obligations to be performed by subcontract must be approved by the Director of OAL or a representative designated by the director. The State reserves the right to reject proposed subcontractors. Subcontractors and their staff are subject to all requirements and provisions of the contract.

### **4.3. *Experience***

#### **4.3.1. Expertise and Staffing**

The proposer is required to demonstrate familiarity with the technical editorial requirements inherent in publication of official government codes and regulations, to show that it comprehends the nature and structure of the Official CCR and Notice Register, and to demonstrate it has the capability to publish the CCR and Notice Register, both in hard copy and on the Internet, on a timely basis and in a professional manner. To fulfill these requirements, the proposer shall submit a company profile which includes the number of years in business and description or chart showing the contractor's current organizational structure. The proposer shall describe in detail its experience with the publication of government codes and/or regulations, describe its knowledge of the nature and structure of the Official CCR and Notice Register, and shall provide the following information concerning its staff:

- Identification of the project administrator assigned to this project;
- A description of qualifications of key personnel to be employed or subcontractors to be used in the direct support of this contract (excluding administrative support);
- A statement indicating the responsibilities key personnel or subcontractors will have in publishing the CCR and/or Notice Register; and
- A resume for each person identified as key personnel or subcontractors, listing experience and education, including but not limited to skills involving proofreading, updating, indexing, or annotating official government or legal publications, or editorial analysis and preparation of official regulatory or statutory text.

#### **4.3.2. Work Samples**

The proposer must provide four samples of actual work performed for hard copy and Internet publishing projects. Two samples must relate to hard copy publishing projects and two samples must relate to Internet publishing projects. One of the samples provided should

relate to a publication that is issued weekly to provide a basis for comparison with the CCR Supplement or Notice Register. All samples must meet the following requirements:

- The sample hard copy publication projects must have been performed within the last 24 months;
- The sample Internet publication projects must have been performed within the last 24 months;
- Tasks performed must have included official government or legal or technical editing and proofreading, with accuracy requirements comparable to OAL's requirements;
- The samples of published material must be of sufficient volume to provide a meaningful comparison to OAL's requirements;
- The hard copy and Internet published material must have required timeframes similar or comparable to OAL's requirements.

The contractor may require the return of work samples, at the contractor's expense, after Award of Contract has been issued by OAL.

#### **4.3.3. Customer References**

The proposer must provide four customer references. At least one reference must relate to a hard copy publication and at least one reference must relate to an Internet publication. Each reference provided must relate to an official government, or legal or technical project. Proposers may use subcontractors and the subcontractor's references to meet these requirements.

Each reference must include the following information:

- Title of the project or publication
- Name of the company, person or entity being used as a reference
- Brief description of the project
- Contact name, telephone number and address (include website if available)

By furnishing the references, the proposer authorizes the state to contact the named company, person or entity to discuss the contractor's past performance.

#### **4.4. *Implementation, Performance and Transition Plan***

Each proposal must include an Implementation, Performance and Transition Plan which demonstrates the contractor's commitment and ability to fulfill its obligations under the CCR publication contract. To satisfy this requirement, the contractor shall submit a narrative describing how it will accomplish the publication of the Official CCR, CCR Supplement, Notice Register, Internet CCR, and fulfill other requirements specified in [Section 3](#). The contractor's Implementation, Performance and Transition Plan shall specify the method it will use to collect material for publication pursuant to Section 3.5 of this RFP.

The contractor is encouraged, but not required, to propose an electronic method for transmission of notices and/or regulation text. The contractor is encouraged, but not required, to propose a plan to make the Notice Register more easily searchable via the Internet.

The Implementation, Performance and Transition Plan shall include specific timeframes for any steps the contractor plans between the date of contract award and the start date of January 1, 2011.

The Implementation, Performance and Transition Plan must also describe the proposer's plan for transition upon contract termination or completion, including outreach and communication with existing customers. The proposer must set forth a list of any problems anticipated to occur during implementation and/or transition, and provide a proposed solution for each problem identified.

The proposer must describe their approach for the transfer of data to OAL at the end of the contract. This plan shall include but is not limited to:

- A commitment to transfer the full and complete CCR Master Database to OAL as specified in [Section 3.2.4](#);
- A commitment to communicate with subscribers to the Official CCR and/or Notice Register upon the completion or termination of the contract;
- A commitment for cooperation and coordination with a subsequent publisher, including outreach to subscribers to the Official CCR and/or Notice Register; and
- Transfer of the full and complete subscriber list for all subscriptions to the Official CCR or Notice Register, including name, address, product and the remaining term for each subscription, to OAL at contract completion.
- Transfer of the full and complete list of entities granted a license to publish all or part of the CCR or Notice Register, including name, address, material licensed and the remaining term of the license, to OAL at contract completion.

#### **4.5. Accuracy Plan**

The proposer must demonstrate that it can competently ensure accuracy of the publications covered by the CCR publication contract. To fulfill this requirement, the proposer must provide an Accuracy Plan describing the steps to be taken to ensure that 100% accuracy levels are met. At a minimum, the Accuracy Plan provided must include the following components:

- A detailed description of how the proposer intends to provide for accurate transcription or reproduction of text;
- A guarantee of 100% accuracy of updates to the CCR, as well as a guarantee of prompt corrective action in the event the accuracy falls below that percentage;
- A guarantee that errors verified by OAL (whether identified by the publisher, OAL or another source) will be corrected in the subsequent update or issue as soon as feasible, but in no event later than 30 days following the identification of the error;
- A recognition that some errors may be of a nature that requires more immediate correction, and an expression of willingness and ability to accommodate requests by OAL for immediate correction;
- A reporting mechanism (such as a quarterly or monthly tracking report).

**Please note: The importance of accuracy in the publication of official regulations and notices cannot be over-emphasized.** OAL and the current publisher will be responsible

for the accuracy of the one-time data supplied to the contractor at the start of the contract. After the contractor awarded the CCR publication contract is supplied with the data, that contractor will be responsible for the accuracy of the conversion of that data, and subsequent accuracy of the CCR Supplement and Notice Register. For purposes of the CCR, OAL defines “accurate” as conforming to the content of documents filed with the Secretary of State, and “error” as any content that deviates from the content as filed with the Secretary of State.

#### **4.6. Availability and Operational Recovery Plan**

The proposer must submit an Availability and Operational Recovery Plan describing at least one alternative plan or arrangement for publishing the CCR and Notice Register in the event that any occurrence or circumstance, including a natural disaster, causes a business interruption affecting production, shipment, and/or access to any database(s) required for timely production of the CCR and Notice Register. The proposer’s Availability and Operational Recovery Plan must describe backup, recovery and archiving procedures to be implemented to ensure the security of the Master Database and the Internet CCR, and contain the following minimum elements:

- Methods of securing data against unauthorized alteration, including the minimum requirements set forth in [Section 3.2.4](#) of this RFP;
- Description of backup process, including backup media (tape, hard drive, etc.), backup software, backup data encryption, and procedures for monitoring backup operations;
- Frequency of local backup and offsite storage;
- Proposed offsite backup of databases, including location of offsite backup, the number of database images to be held, the retention period of the offsite backup and the processes to be used for data restoration;
- Description of fire suppression systems for computer equipment;
- Description of auxiliary power sources for computer equipment;
- Training and/or experience of contractor in mitigating risks related to unexpected events and natural disasters;
- Alternative sites for printing and computer processing in the event of disaster;
- Recovery from system failure or unscheduled downtime within 2 hours;
- Recovery from natural disasters within 5 working days.

#### **4.7. Internet CCR Plan**

The proposer must submit a detailed description of its plan to publish the Internet version of the CCR with the elements specified in [Section 3.4](#). The proposer may submit a link to a test online version of the CCR rather than paper documents indicating the design. At a minimum, the Internet CCR Plan must describe how the proposer intends to provide:

- Accessibility by persons with disabilities to comply with state and federal requirements;
- Availability of the Internet CCR 24 hours a day, 7 days a week, excluding scheduled maintenance, approved by OAL, not to exceed 2 hours per week;
- Prompt response times;
- Ease of navigation through content;



- Ease of printing;
- Search capabilities.

Proposers are encouraged, but not required, to offer enhancements to the Internet CCR, including, but not limited to, versioning (availability of a previous version of a section amended after the start date of the CCR publication contract), text hyperlinks such as links to other CCR sections or documents incorporated by reference, or other enhancements.

#### **4.8. Compensation**

In exchange for being granted the exclusive right to publish the Official California Code of Regulations and the California Regulatory Notice Register, the proposer shall compensate the state of California by paying an annual license fee, or a royalty based on net revenues,<sup>17</sup> or both an annual license fee and royalty. To fulfill this requirement, the proposal must include a completed Compensation Offer Form (see [Section 6](#), “Required Attachments”). The Compensation Offer Form specifies the points available to be awarded for compensation, and provides samples showing the scoring methodology to be used.

The contractor may propose an offset from the compensation it offers for maintaining the Internet CCR. Any offset so proposed will be subtracted from any amount offered as an annual license fee to determine the net annual fee.

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<sup>17</sup> “Net revenues” means all sales proceeds less returns, discounts refunded to the customer, and, if not charged separately but included in the sales price, sales taxes, transportation and handling, and, in addition, all revenues received from licenses to third parties (including affiliated companies) without any reduction.



## **5. PREFERENCE PROGRAMS, APPLICABLE STATE LAWS**

### **5.1. *Summary***

The purpose of Section 5 is to specify whether or not certain preferences allowed under California law apply to this RFP, and to provide information about applicable state laws.

### **5.2. *Small Business Preference***

Section 14835, et seq. of the California Government Code requires that a 5% preference be given to a bidder who qualifies as a California Certified Small Business, or a bidder who qualifies as a non-small business claiming at least 25% California Certified Small Business subcontractor participation. The rules and regulations of this law, including the definition of a Certified Small Business, are contained in California Code of Regulations, title 2, section 1896, et seq. Information about the small business preference may be found at <http://www.pd.dgs.ca.gov/smbus/sbpref.htm>, obtained by email to [Advocate@dgs.ca.gov](mailto:Advocate@dgs.ca.gov), or by phone at (916) 375-4940. Completed certification applications and required support documents must be submitted to the state Office of Small Business and Disabled Veteran Business Enterprise Certification (OSDC) no later than 5:00 p.m. on the bid due date, and OSDC must be able to approve the application as submitted.

Pursuant to California Code of Regulations, title 2, section 1896.8(e), the maximum value of the small business preference cannot exceed \$50,000. If a qualified bidder is eligible for the 5% preference, OAL will compute the preference pursuant to the formula contained in title 2, section 1896.8(b).

Proposers wishing to claim a small business preference must provide a copy of their Certification, or a list of California certified small business subcontractors to be used, as an attachment to Volume 1 of their proposal.

### **5.3. *Disabled Veteran Business Enterprises (DVBE)***

For the purposes of this solicitation, the Disabled Veteran Business Enterprises (DVBE) participation requirement has been waived by the Director of OAL.

### **5.4. *Target Area Contract Preference Request***

This preference does not apply to this solicitation.

### **5.5. *Local Area Military Base Recovery Act***

This preference does not apply to this solicitation.

### **5.6. *Enterprise Zone Preference Request***

This preference does not apply to this solicitation.

### **5.7. *Darfur Contracting Act***

Pursuant to Public Contract Code section 10478, if a bidder or proposer currently or within the previous three years has had business activities or other operations outside of the United States, it must certify that it is not a “scrutinized” company as defined in Public Contract Code section 10476. A proposer who has done business outside of the United States must submit a certification to comply with California law. Please see [Section 6](#), “Required Attachments” for information about obtaining the required certification form.

### **5.8. *Air or Water Pollution***

Government Code section 4477 prohibits the State from contracting with a person, including a corporation or other business association, who has been determined to be in violation of any state or federal air or water pollution control law. Government Code section 4481 requires the State Water Resources Control Board and the Air Resources Board to notify state agencies of such persons.

After the final date for submission of proposals, OAL will ascertain if any contractor who submitted a proposal is a person included in Notices from the State Water Resources Control Board or the Air Resources Board by reference to boards’ notices. No award will be made to a person who is identified either by the published notices or by advice, as a person in violation of State or federal air or water pollution control laws.

### **5.9. *Loss Leader Prohibition***

Pursuant to Public Contract Code section 10302, it is unlawful for any person engaged in business within this state to sell or use any article or product as a “loss leader” as defined in section 17030 of the Business and Professions Code.<sup>18</sup>

### **5.10. *Fair Employment and Housing***

Government Code section 12990 requires all state contractors to have implemented a Nondiscrimination Program before entering into any contract with the state. The Department of Fair Employment and Housing (“DFEH”) randomly selects and reviews state contractors to ensure their compliance with the law. DFEH periodically disseminates a list of bidders who have not complied. Any contractor so identified by DFEH is ineligible to enter into any state contract, and no award will be made to that contractor.

### **5.11. *Additional Applicable State Laws***

For other applicable state laws and requirements, please read the Contractor’s Certification Clauses (CCC–307), and the State of California General Terms and Conditions (GTC–307) at <http://www.ols.dgs.ca.gov/Standard+Language/default.htm>. Copies of CCC-307 or GTC-307 may also be requested from the OAL contact person listed in Section 1 of this RFP.

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<sup>18</sup> Section 17030 provides that “Loss leader” means any article or product sold at less than cost: (a) Where the purpose is to induce, promote or encourage the purchase of other merchandise; or (b) Where the effect is a tendency or capacity to mislead or deceive purchasers or prospective purchasers; or (c) Where the effect is to divert trade from or otherwise injure competitors.

## 6. REQUIRED ATTACHMENTS

The purpose of Section 6 is to list required attachments for Volume 1 and Volume 2, and to provide forms or information about obtaining forms.

### 6.1. *Volume 1 Attachments*

In addition to a cover letter (see [section 2.4](#), “Proposal Submission Requirements”), and the Response to Minimum Qualifications (see [section 4](#)), Volume 1 must include the following attachments:

- Payee Data Record (STD.204). This form may be found at <http://www.documents.dgs.ca.gov/osp/pdf/std204.pdf>. A blank form may also be requested from the OAL contact person listed in Section 1 of this RFP.
- Contractor Certification Clauses (CCC-307). This form may be found at <http://www.ols.dgs.ca.gov/Standard%20Language/default.htm> (look for the “CCC–307” link). A blank form may also be requested from the OAL contact person listed in Section 1 of this RFP.
- Darfur Contracting Act Certification. This form may be found at [http://www.dbw.ca.gov/PDF/AquaticGrant/2009Exhibit\\_E.pdf](http://www.dbw.ca.gov/PDF/AquaticGrant/2009Exhibit_E.pdf). A blank form may also be requested from the OAL contact person listed in Section 1 of this RFP.
- Small Business Certification (if claiming a small business preference). See Section 5.2 of this RFP and visit <http://www.pd.dgs.ca.gov/smbus/sbpref.htm>, or email [Advocate@dgs.ca.gov](mailto:Advocate@dgs.ca.gov), or phone (916) 375-4940..

## 6.2. Volume 2/Compensation Offer Form

**NOTE:** Volume 2, Compensation Offer Form must be clearly marked and sealed separately from Volume 1 as specified in [Section 2.4](#). If the Compensation Offer Form is not sealed separately as required, your bid may be disqualified.

**OFFER OF \_\_\_\_\_ (Name of Bidder):**

Line	CATEGORY	OFFER	POINT VALUE
A.	ANNUAL LICENSE FEE (if any)	\$ _____	<b>20 Points</b>
B.	OFFSET FOR INTERNET CCR (if any)	\$ _____	
C.	NET ANNUAL LICENSE FEE (if any) [Subtract Line B from Line A]	\$ _____	
D.	ROYALTY (% of net revenues) (if any)	_____ %	<b>10 Points</b>

### POINT VALUE METHODOLOGY

**Net Annual License Fee:** 20 points will be awarded to the bidder offering the highest net annual license fee. Other bidders will be awarded points based on the ratio of their offered net annual license fee to the highest offered net annual license fee, multiplied by the maximum points available.

**Royalty:** 10 points will be awarded to the bidder offering the highest royalty on net revenues. Other bidders will be awarded points based on the ratio of their offered royalty to the highest offered royalty, multiplied by the maximum points available.

### SCORING EXAMPLES

#### Net Annual License Fee Scoring Example

SAMPLE LICENSE FEE OFFERS:

Bidder A offers a net annual license fee of \$10,000.

Bidder B offers a net annual license fee of \$5,000.

Bidder C offers no net annual license fee.

RESULTING SCORE:

Bidder A is awarded the maximum 20 points.

Bidder B is awarded 10 points (ratio of B's offer of \$5,000 to A's offer of \$10,000 calculated as  $5,000/10,000 \times 20$ ).

Bidder C is awarded 0 points (ratio of C's offer of \$0 to A's offer of \$10,000 calculated as  $0/10,000 \times 20$ ).

**Royalty Scoring Example****SAMPLE ROYALTY OFFERS**

Bidder A offers a royalty of 5%.

Bidder B offers no royalty.

Bidder C offers a royalty of 25%.

**SAMPLE ROYALTY SCORING RESULTS**

Bidder C is awarded the maximum 10 points.

Bidder A is awarded 2 points (ratio of A's offer of 5% to C's offer of 25% calculated as  $5/25 \times 10$ ).

Bidder B is awarded 0 points (ratio of B's offer of 0% to C's offer of 25% calculated as  $0/25 \times 10$ ).

**Total Combined Score**

	<b>Net Annual License Fee</b>	<b>Points Awarded Net Annual License Fee</b>	<b>Royalty %</b>	<b>Points awarded Royalty</b>	<b>TOTAL POINTS AWARDED</b>
BIDDER A	\$10,000	20	5%	2	22
BIDDER B	\$5,000	10	0%	0	10
BIDDER C	\$0	0	25%	10	10