

Commonwealth of Massachusetts

Supreme Judicial Court

Appeals Court

Trial Court of the Commonwealth

Requests for Response for Pilot Programs/Services for

Electronic Filing of Court Documents

MATCourts 2012 1

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Section 1 General

1.1 Scope

1.1.1 The Massachusetts Trial and Appellate Courts (the Courts) seek proposals to provide commercial electronic filing system pilot programs in six Massachusetts courts (the Pilot Courts). The pilots will include installation, user testing, data conversion (if required), training, software maintenance, and both system and user documentation, for one case type in each of the Pilot Courts. Three of the Pilot Courts will be in the Massachusetts Appellate Courts (Supreme Judicial Court and Appeals Court), two in the Supreme Judicial Court and one in the Appeals Court, and three of the Pilot Courts will be in the Massachusetts Trial Court, one each in the District, Boston Municipal and Probate and Family Court departments. Following the successful completion of the pilot programs, as determined by the Courts after an evaluation process described below, the Courts or some of them may request the expansion of e-filing services 1) to include additional case types in the Pilot Courts, and 2) to include selected case types in all other divisions of the Trial Court. In the Trial Court, the proposed e-filing system will be for individual attorneys and self-represented (pro-se) litigants, for the most part in civil cases, as the Trial Court will use a proprietary e-filing system for most criminal cases and for civil cases filed by governmental agencies. In a small number of these cases, there may ultimately be a need for members of the public to either initiate cases, or to file documents in existing cases. In the Appellate Courts e-filing by attorneys, governmental agencies and self-represented litigants will be available in all case types.

1.2 Procuring Entities

1.2.1 This RFP is issued by the Supreme Judicial Court, (SJC), for the pilots that will take place in the SJC and the Appeals Court, (AC), and by the Office of Court Management (OCM)), which is the central administrative office for the Trial Court Department of the Judicial Branch of the Commonwealth of Massachusetts.

1.2.2 This RFP is issued under laws, rules, procedures and practices applicable to the Judicial Branch of the Commonwealth of Massachusetts. The Judicial Branch is not subject to 801 CMR 21.00 et seq., which governs the procurement process of the Executive Branch of the Massachusetts state government. Vendors responding to this RFP should not assume that Judicial Branch procurement practices correspond directly to the procurement practices of other branches, agencies, departments, or divisions of the Commonwealth of Massachusetts. Additional terms and conditions may be introduced at the vendor selection and contract negotiation phases. A copy of the Draft Rules for E-filing Pilots (Draft Rules) are attached as Exhibit I, and Vendors are invited to comment on the Draft Rules.

1.2.3 The Supreme Judicial Court is the Commonwealth's highest appellate court; in addition to being responsible for the general superintendence of the judiciary and of the bar, and making or approving rules for the operations of all the courts, it prepares and administers

its own budget, separately from both the Appeals Court and the Trial Court. The Supreme Judicial Court will be the contracting party for the Appellate Courts (SJC and Appeals Court) pilot programs and ongoing e-filing vendor services.

1.2.4 The Massachusetts Trial Court was consolidated into a statewide court system by Chapter 478 of the Acts of 1978. The Massachusetts Trial Court is comprised of the Office of Court Management, seven departments (Superior Court, Boston Municipal Court, District Court, Probate and Family Court, Juvenile Court, Housing Court and Land Court), the Office of Jury Commissioner, and the Office of Commissioner of Probation.

1.2.5 Recent court reorganization legislation (Chapter 93 of the Acts of 2011) created the position of a Court Administrator (“CA”) who, in conjunction with the renamed position of Chief Justice of the Trial Court (“CJTC”) (formerly Chief Justice for Administration and Management (“CJAM”)), would share management duties. The CA is primarily responsible for court administration and the CJTC is primarily responsible for judicial administration. The change in position title from CJAM to CJTC occurred on July 1, 2012. Therefore, the position will be identified throughout this solicitation as the “CJTC”. The OCM is the office through which the CA manages the Trial Court. This office works closely with the Office of the Chief Justice of the Trial Court, the Trial Court Departments and Commissioners and with the Supreme Judicial Court and Appeals Court to enhance the administration of justice in the Commonwealth. The OCM is charged with developing a wide range of centralized functions and standards for the benefit of the entire Trial Court. Not the least of these is the development of a budget for the Trial Court, central accounting and procurement systems, and personnel policies, procedures and standards for court staff who were formerly employed by counties and other governmental entities. Over time, the Trial Court has become responsible for the management of its facilities, security, libraries, information technology and many other matters.

1.3 Contract Term

1.3.1 The contract term for the pilot programs shall begin upon the date the contract is executed, and shall end no later than six months thereafter. By written agreement of the parties, the contract may be extended annually for up to five (5) consecutive one-year terms on the same terms and conditions. In any such extension, the scope of the contract may be extended to include additional divisions of the Trial Court, and to include additional case types in the Trial and Appellate Courts.

1.4 Compensation

1.4.1 The contract awarded will be on a vendor cost recovery basis, at no cost to the Commonwealth or the Courts, except for the possible installation and maintenance of a CMS and/or DMS as set out in Section 2, below. The proposal must include the pricing of services proposed to the filers, which may include compensation to the Commonwealth. Cumulative usage fees generated by the Vendor system that exceed the initial development and the ongoing operational costs, including compensation to the Commonwealth, by an agreed percentage must be used to reduce filer costs.

1.4.2 The RFP submission is required to include the Pricing Submission form (Exhibit F, attached). The form is structured to capture a pricing matrix based on:

1.4.2.1 The volume of e-filings;

1.4.2.2 Whether, ultimately, multiple Electronic Filing Service Providers (EFSPs) are used.

1.5 Description of Appellate Courts

1.5.1 The appellate courts of Massachusetts are the Supreme Judicial Court (SJC) and the Massachusetts Appeals Court (Appeals Court or MAC).

1.5.1.1 Supreme Judicial Court

The Supreme Judicial Court has final appellate authority over the decisions of lower courts. All appeals from the trial court are entered first in the Appeals Court, with the exception of first degree murder convictions, which go directly to the SJC. Once entered in the Appeals Court, the SJC may take the case for initial hearing on its own initiative, or on a party's application for direct appellate review. After decision or other disposition by the Appeals Court, the SJC may grant an application for further appellate review. The SJC also conducts a single justice session, reviewing certain rulings in the Trial Court prior to the conclusion of cases there. Certain cases that originate in the single justice session may reach the full SJC by way of a reservation and report or by appeal. There are seven justices of the Supreme Judicial Court.

In addition to first degree murder cases, other cases that are entered originally in the SJC are requests for advisory opinions from the Governor, the Governor's Council, or either branch of the Legislature; questions of law certified by Federal courts or certain other courts; and original entries involving the discipline of clerks of courts and judges.

The SJC also is responsible for the general superintendence of the Judiciary and the bar, makes or approves rules for the operations of all courts, and has varying degrees of responsibility for entities affiliated with the Judicial Branch, including the Board of Bar Overseers and the Board of Bar Examiners.

There are two Clerks offices in the SJC; the office of the Clerk of the SJC for the Commonwealth, and the office of the Clerk of the SJC for Suffolk County.

The duties of the office of the Clerk of the SJC for the Commonwealth include responsibility for the court's appellate caseload; attending sessions of the full court; maintaining the docket of each related item; setting the court calendar; processing and distributing all pertinent filings; and serving as the court's liaison to the parties or their counsel and the public. The pilot in this office will involve the filing of Direct and Further Appellate Review cases.

The office of the Clerk of the SJC for Suffolk County has three departments. The Single Justice Department is responsible for the single justice caseload of the Supreme Judicial Court. The Bar Docket Department is responsible for matters filed by the Board of Bar Overseers pertaining to attorney discipline and administrative matters affecting members of the bar. The Attorney Services Department receives and maintains applications for admission to the bar of the Commonwealth, coordinates the formal admission ceremony of new attorneys, issues certificates of good standing, processes applications for student practitioners, processes applications from attorneys in foreign jurisdictions, and processes applications for licensing of foreign legal consultants. The pilot for this office will involve the filing of Petitions for Admission to the Bar.

The Supreme Judicial Court of Massachusetts currently has no electronic filing system.

1.5.1.2 Appeals Court

The Commonwealth has a statewide intermediate appellate court, the Massachusetts Appeals Court. The Appeals Court is a court of general appellate jurisdiction. Most appeals from the several Departments of the Trial Court are entered initially in the Appeals Court; some few are then transferred to the Supreme Judicial Court, but a large majority will be decided by the Appeals Court. The Appeals Court also has jurisdiction over appeals from final decisions of three State agencies: the Appellate Tax Board, the Department of Industrial Accidents and the Commonwealth Employment Relations Board. A few types of appeals do not go to the Appeals Court. For example, an appeal from a conviction of first degree murder goes directly to the Supreme Judicial Court.

The Appeals Court has twenty-five statutory justices. The Court also has the services of retired appellate justices under a "recall" provision of the statutes. The Appeals Court almost always sits in panels of three. The composition of the three-judge panels changes regularly, so that each justice has the opportunity to sit with every other justice. The Court holds sessions in Boston during every month from September through June; it also holds a number of sessions throughout the year in locations outside of Boston.

In addition to its appellate, or "panel," jurisdiction, the Appeals Court runs a continuous single justice session, with a separate docket. The single justice may review interlocutory orders and orders for injunctive relief issued by certain Trial Court Departments, as well as requests for review of summary process appeal bonds, certain attorney's fee awards, motions for stays of civil proceedings or criminal sentences pending appeal, and motions to review impoundment orders. Each associate justice sits, in rotation, as single justice for a month at a time. The pilot for the Office of the Clerk of the Appeals Court will include the filing of all papers (e.g. motions, status reports, briefs, and record appendices) for certain civil and criminal appeals to be identified.

The Appeals Court has commenced certain electronic filing procedures as described

in paragraph 1.8.

The pilot case type for the Office of the Clerk of the Appeals Court will include the filing of all papers (e.g., motions, status reports, briefs, and record appendices) for certain civil and criminal appeals.

1.5.1.3 Other Intermediate Appellate Courts

1.5.1.3.1 In the Superior Court Department, appeals of sentences to the state prison, and appeals of sentences to the reformatory for women for terms of more than five years, imposed in the Superior Court by final judgments in criminal cases, may go to the Appellate Division of the Superior Court. Three judges are appointed to this appellate division.

1.5.1.3.2 The District Court and Boston Municipal Court Departments of the Trial Court each have an appellate division to review questions of law that arise in civil cases. Each appellate division publishes opinions. In the District Court, fifteen of its judges serve on the Appellate Division, which is organized in three geographical districts, Northern, Southern and Western. In the Boston Municipal Court, six of its judges serve on the Appellate Division.

None of the intermediate appellate courts currently participate in an electronic filing system.

1.6 Description of Trial Courts

1.6.1 District Court Department

The District Courts are trial courts of broad, yet limited jurisdiction. The geographical area served by each court is established by the Legislature. The District Court's civil jurisdiction includes cases in which the likely recovery does not exceed \$25,000; small claims cases; summary process (eviction) cases; and mental health and alcohol and drug abuse commitments. The District Courts also hear domestic violence restraining order cases, and harassment prevention order cases. Criminal jurisdiction extends to felonies punishable by a sentence up to five years; misdemeanors, including violations of domestic violence restraining or harassment prevention orders; and violations of city and town ordinances and by-laws. The court also hears civil motor vehicle infraction appeals, and provides judicial review of some governmental agency actions, such as the revocation of a permit to carry a firearm.

The District Court is comprised of 158 judges authorized to serve in the Department's 62 divisions. District Court judges are appointed to a specific division, but frequently sit by assignment in other divisions of the District Court Department.

The Worcester Central District Court will serve as the District Court's pilot site. The pilot program will be for civil cases, usually filed by attorneys, involving civil actions where the possibility of recovery does not exceed \$25,000. The ultimate e-filing system subject of this RFP will be principally all civil actions, as enumerated above, filed in the District Court by attorneys and self-represented litigants. As noted above, for the most

part, electronic filings in criminal cases, and electronic filings in civil actions by governmental agencies, will be electronically filed using proprietary applications developed by the Trial Court; there may be a need to extend e-filing to parties in criminal and other governmentally initiated cases after case initiation, during the pendency of the case and in preparation for any appeal that might be taken.

1.6.2 Boston Municipal Court Department

The Boston Municipal Court is comprised of 30 authorized judicial positions to serve eight divisions within the City of Boston. Judges are appointed to a specific division but occasionally sit by assignment in other divisions of the Boston Municipal Court Department.

The civil and criminal jurisdiction of the Boston Municipal Court Department is virtually identical with that of the District Court Department.

The initial e-filing pilot program in a Boston Municipal Court division will be in the Brighton division, and, as in the District Court department, for civil cases, where the parties are usually represented by attorneys, involving civil actions where the possibility of recovery does not exceed \$25,000. The ultimate e-filing system subject of this RFP will be as outlined for the District Court department.

1.6.3 Probate and Family Court Department

The Probate and Family Court Department has jurisdiction over family-related matters such as divorce, paternity, child support, custody, visitation, adoption, termination of parental rights, and, with the District Courts and Boston Municipal Courts, abuse prevention. Probate matters include jurisdiction over wills, administration of decedents' property, guardianships, conservatorships, and changes of name.

The Probate and Family Court has 51 authorized judicial positions serving in 14 divisions. Some Probate and Family Court judges are appointed to a specific division, and occasionally sit by assignment in other divisions, while others are statutorily appointed as circuit justices to sit in such counties as the chief justice designates.

The initial e-filing pilot program in a Probate and Family Court will take place in the Essex Probate and Family Court, and will be for the filing of Joint Petitions for Divorce. The ultimate e-filing system will be for all case types in the Probate and Family Court, and may include parties responding to cases filed by governmental agencies using the Trial Court's proprietary e-filing system.

1.6.4 Housing Court

The Housing Court Department has subject matter jurisdiction concurrent with the Boston Municipal Court, District Court and Superior Court Departments over cases involving residential housing within each Housing Court division's geographic jurisdiction. In addition to summary process (eviction) cases, the Housing Court hears small claims cases

and civil actions involving the health, safety or welfare of the occupants or owners of residential housing, including claims for personal injury, property damage, breach of contract, and discrimination. The Housing Court hears appeals of zoning board decisions that affect residential housing, as well as appeals of tickets issued by Commonwealth and code enforcement agencies, and the state Fire Marshall's Office.

Landlords, tenants and homeowners may seek equitable relief in the Housing Court in the form of restraining orders and injunctions to enforce their rights under the laws and regulations related to residential housing. Additionally, the Housing Court has jurisdiction to hear criminal cases that are brought to enforce the municipal ordinances or the Commonwealth's sanitary, building and fire prevention codes that regulate residential housing.

The Housing Court has 10 judges authorized to serve in its five divisions: Boston, Northeast, Southeast, Western and Worcester. Four of the five divisions conduct satellite sessions within their respective jurisdictions, currently conducting sessions in 21 courthouses. Housing Court judges are appointed to a particular division, and occasionally sit by assignment in another division.

The Housing Court will not participate in the pilot program subject of this RFP, but the ultimate e-filing system will be for plaintiffs other than governmental agencies, and for non-governmental defendants and respondents, in all divisions of the Housing Court.

1.6.5 Juvenile Court

The Juvenile Court Department has general jurisdiction over cases involving delinquency, children in need of services, care and protection petitions, adults contributing to the delinquency of minors, adoption, guardianship, termination of parental rights, and youthful offenders.

The Juvenile Court has 41 authorized judicial positions to serve its 11 divisions. Many divisions conduct satellite sessions in multiple locations within their respective jurisdictions.

The Juvenile Court will not participate in the pilot program and, although the ultimate e-filing system should be available for non-governmental parties and case participants, for the most part, electronic filing from Commonwealth agencies will use proprietary applications developed by the Trial Court.

1.6.6 Land Court

The Land Court Department has jurisdiction over the registration of title to real property, and foreclosure and redemption of real estate tax liens. The Court shares jurisdiction over matters arising out of decisions by local planning and zoning boards and zoning boards of appeal, and over most property matters. It also has superintendence authority over the registered land offices in each Registry of Deeds. Based in Boston, the Land Court may schedule sessions in other locations within the Commonwealth.

The Land Court has 7 authorized judicial positions. The Land Court will not participate in the pilot program, but the ultimate e-filing system will be for all case types in the Land Court.

1.6.7 Superior Court

The Superior Court Department has jurisdiction over most felonies, civil actions where the amount in controversy is over \$25,000, and matters in which equitable relief is sought. It also has original jurisdiction in actions involving labor disputes where injunctive relief is sought, and has exclusive authority to convene medical malpractice tribunals.

The Court has exclusive original jurisdiction in first degree murder cases and original jurisdiction for all other crimes. It has jurisdiction over all felony matters, although it shares jurisdiction over crimes where other Trial Court Departments have concurrent jurisdiction. Finally, the Superior Court has appellate jurisdiction over certain administrative proceedings.

There are 82 authorized Superior Court judges. The Superior Court is the only “circuit court” of the seven Trial Court departments. Judges are routinely scheduled to sit in one location for several months. There are 14 Superior Court divisions, one for each of the 14 counties in the Commonwealth. Some Superior Court judges may sit in sessions in multiple locations within a county. The Superior Court will not participate in the pilot program, but the ultimate e-filing system will be for all case types in the Superior Court department.

1.6.8 Office of the Commissioner of Probation

The Office of the Commissioner of Probation (OCP) is a department of the Massachusetts Trial Court and the administrative office for the Massachusetts Probation Service and the Office of Community Corrections; both of which are managed by the Commissioner of Probation. In Massachusetts, there are 105 separate Probation departments throughout the 12 counties: eight divisions of the Boston Municipal Court (BMC); 12 Superior; 62 District; 11 Juvenile; and 12 Probate & Family Courts. In Superior Court, Probation Officers supervise the most serious felony cases. District and Boston Municipal (BMC) Court Probation Officers supervise criminal cases. Juvenile Court Probation Officers supervise children, adolescents and young adults involved in delinquent, youthful and status offending behavior, as well as, monitor the welfare of children who are before Juvenile Court as subjects of parental abuse and neglect. Probate & Family Court Probation Officers are involved in assisting the court in civil matters such as domestic issues, divorce, paternity, guardianship and adoption. Probate & Family Court Probation Officers are asked to conduct dispute interventions in contested cases involving child custody and parenting time, child support, and other divorce issues, as well as investigate custody and other child related issues that may arise in family matters.

E-filing for the Probation Service will be done for the most part through the Trial Court’s proprietary e-filing system; there may be some requirement, as yet undetermined, for e-filing documents through the Vendor’s e-filing system.

1.7 Description of Case Filings in Massachusetts

1.7.1 Case Filing Types

A list of case types is attached to this document as Exhibit A

1.7.2 Case Filing Statistics

A list of case filing statistics is attached to this document as Exhibits B, C, D and E

1.8 Overview of Electronic Filing in Massachusetts

1.8.1 The Appeals Court currently requires electronic filing at several points during a case. These include:

1.8.1.1 Upon entry of an appeal, the appellants and cross-appellants in all civil and criminal cases (excluding child welfare cases and incarcerated self-represented litigants) must complete and file a docketing statement. The statements are available on the Appeals Court's website as a PDF form that has drop-down menus, calendars, and text that automatically fills in certain information. Attorneys and litigants are asked to complete the form online, save it, sign it electronically using the /s/ followed by the filer's name, and file it with the court by e-mail. It may also be served by e-mail on consenting parties to the case.

1.8.1.2 A party who files a motion or petition, or opposition thereto, in the Appeals Court's single justice session must e-mail a PDF duplicate to the court.

1.8.1.3 The Superior Court department and the Trial Court's Office of Transcription Services submit CDs containing PDF transcript files to the Appeals Court, or e-mail transcripts of cases to the Appeals Court in PDF format if the CDs were not submitted in the first instance.

1.8.1.4 Every filing that occurs after a case has been assigned to a panel of Appeals Court Justices for hearing and/or decision must be e-mailed to the court by counsel or self-represented litigant in PDF form; paper filings are not accepted.

1.8.1.5 The court maintains a "registration only" electronic notice system. Attorneys and litigants can register to receive notices of court orders by submitting a completed PDF form by e-mail, which is contained on the court's web site, indicating that they wish to receive electronic notices in lieu of paper.

1.8.1.6 The court is operating a pilot program on its web site, whereby the public may purchase recordings of oral argument in a case, with payment over the Internet by credit card.

1.8.1.7 At relevant points during the case, the Appeals Court e-mails copies of court orders and decision documents to trial court justices or trial court staff.

1.8.2 Through its proprietary application, the Trial Court is able to exchange electronic data on a regular basis with the Commonwealth's Merit Rating Board (MRB), through the Registry of Motor Vehicles (RMV). Requests for hearings contesting a citation for a Civil Motor Vehicle Infraction (CMVI) are filed by the citizen with the MRB. The MRB transmits the request together with other pertinent information to the appropriate District or Boston Municipal Court; the transmitted data creates a case and, after hearing, the results are sent in digital form to the MRB for appropriate action. The District Court and the BMC also transmit information concerning the disposition of certain motor vehicle and drug offenses initiated in the court, to various Commonwealth agencies which require the information. Finally, under a pilot program with the Commonwealth Department of Children and Families (DCF), judicial orders in the Probate and Family Court may be transmitted electronically to the Executive Office for Health and Human Services for further distribution by them to the DCF. Additional data exchanges with DCF will take place when their IT systems permit. The Trial Court is also engaged in developing a pilot program with the Commonwealth Registry of Vital Records and Statistics (RVRS), the Commonwealth Department of Revenue (DOR), and the Boston Police Department (BPD) for the exchange of certain data in electronic form.

Section 2 Statement of Work

The Courts seek a system that provides both for electronic filing of forms and documents, as well as the ability of e-filers using the system to search and retrieve documents and records through the Vendor's system in cases in which the e-filer is, or represents, a party, for at least one year after a case is no longer active.

The Vendor will be the Electronic Filing Service Provider (EFSP) and provide the functionality that will allow filers to interact with the Courts' Case Management Systems (CMS) and/or Document Management Systems (DMS) through the Vendor's secure portals. The Courts' CMS/DMS include Forecourt Paragon, Forecourt Classic (both products of Relational Semantics, Inc.), Opentext's Livelink, and Filenet, in the Appellate Courts, and CourtView Justice Solutions' software, referred to as MassCourts, and Vista's netDMS imaging software, in the Trial Court. The Vendor will have the responsibility of determining and complying with all conditions, requirements, and licensing, if applicable, of the Courts' CMS/DMS vendors.

For certain applications, the Vendor may also be requested, on separate contract terms, to recommend and/or provide a CMS/DMS solution.

The system must meet all requirements specified in this document. The Proposal must describe how the Vendor will accomplish each requirement.

2.1 General Requirements

- 2.1.1** The system shall support access for any person wishing to file a document, and shall permit a filer or a non-filing party to a case to view case information and documents, and, where appropriate, an impounded or confidential electronic document in a pilot court case file, through the use of any Internet browser and personal computer. System users shall also be able to access the web sites through the use of publicly accessible PCs located in the public areas of each pilot court's Clerk's office. The Vendor system will provide for the waiver of Vendor fees, as well as court fees, for persons determined to be indigent by the court receiving the filing. The Vendor system will provide for multi-lingual instruction and use. These PCs will access the web site through the Courts' Intranet. Court personnel, including judges, clerk-magistrates and authorized court staff shall have access through the Courts' Intranet in the courthouses and over the Internet when away from the court.
- 2.1.2** All use shall be through the Internet, or on computers located in the various court Clerks' offices or through a Court Intranet connection web site set up to provide: (1) document acceptance and fee payment, if any, (2) document viewing, (3) document downloading and uploading, and (4) document printing (where available). Such access shall be by individuals using only standard types of modern browser software. The Courts will have final determination of which browser software packages and versions the system shall be required to support. At a minimum, these shall include Internet Explorer Version 5.0 or above, Firefox Version 3.0 or above, Google Chrome, or Safari Version 5.0 or above. Access to the Courts' CMS/DMS applications shall be through a Connector, described below.
- 2.1.3** It is expected that individuals who are not represented by an attorney, and who do not otherwise have access to a personal computer (PC) capable of accessing the Courts' web sites, will be able to use community-based points of access, including computers in court houses, community centers, law libraries, public libraries and other public locations. The Vendor must provide certain forms and tutorials which shall exist on or be accessible from its web site, to support all users in their electronic filing and document viewing efforts. All access will be through a standard Internet or Intranet connection made via the use of one of the browser software packages described above.
- 2.1.4** All Web pages must meet standards of the Americans with Disabilities Act (ADA) or provide such reasonable accommodation of disabled users as required by law. All Web pages must be approved by the Courts before implementation.
- 2.1.5** The System shall be available "24/7" (twenty-four hours per day, seven days a week) for receipt and initial acceptance/rejection of documents, regardless of whether the systems of any of the Appellate Courts or the Trial Court are available during those hours. The filer interface must allow the filer and other authorized users to view his/her active electronic case list and documents associated with an electronic case "24/ 7", (twenty-four hours per day, seven days a week), except for maintenance periods approved by the Courts..
- 2.1.6** There shall be no direct XML interfaces to the Trial or Appellate Courts' CMS and/or DMS that do not conform to the latest Legal XML Court Filing Standard, and the successful Vendor shall not utilize, in any exchange, web interfaces or XML envelopes that are proprietary or non-ECF Standard XML. The filer interface shall be designed to collect the necessary data elements for inclusion in the Courts' CMS and/or DMS, including filing, indexing, docketing, calendaring and accounting.
- 2.1.7** Online filing functionality shall support the ability to file either a single document or a

batch of more than one document. The document(s) and attachment(s), if any, to be filed must be included within a single Court Filing XML envelope that is completed either online or via an electronic transmission by the filer.

2.1.8 Electronic transmission of batches of document(s), attachment(s), if any, and a completed Court Filing XML-compliant envelope from a filer to the Courts' electronic filing web servers shall also be supported.

2.1.9 In addition, the Vendor system must:

2.1.9.1 electronically serve documents and notice to other case participants participating in the electronic filing pilot through a "mail box" that is part of the E-filing application, with notification by e-mail, and automatically create, and if the particular court requires, docket in the case management systems a certificate of service for the document served, and accommodate service by traditional manner by the filer for parties to a case not participating in the electronic filing pilot. If the Vendor's system does not provide for electronic service, the Vendor must present options whereby the filer may effectuate electronic service to registered electronic filers, and service by traditional manner to case participants who elect not to engage in electronic filing.

2.1.9.2 create an audit log of electronic-filing events including when a document is received, filed, served, and entered in the docket.

2.1.9.3 allow all documents electronically filed, and all system-generated notices, announcements, and reports, to be printed as paper documents without loss of content or appearance.

2.1.9.4 notify a filer if his/her document or filing is incomplete, the area or areas of the document or filing that need to be completed, (i.e., that a required section of the document has not been filled in or that the filing fee has not been remitted and no petition for waiver of the fee has been attached), and that the incomplete document or filing will not be transmitted to the court until the document or filing has been completed.

2.1.9.5 electronically notify a filer of the Clerk's acceptance or rejection of a filing, with provision for including the Clerk's reason for rejection, and provide a mechanism for the filer to take additional action if required by the Clerk's decision, (e.g., amend a filing).

2.1.9.6 assign a unique identifier for each filing, and assign a unique case identifier until assignment of a permanent court case number.

2.1.9.7 provide a method for filers to transmit proposed orders and other proposed materials to judicial officers for consideration, and a method for judicial officers to return a modified proposed document to the sending party and other case parties using the electronic filing system. The Vendor system must provide for sending an automatic notice to all parties using the electronic filing system when a filer sends a proposed order or other proposed materials to a judicial officer for consideration, and must notify the Clerk that a notice of such filing in paper form be sent to case parties not using the electronic filing system.

2.1.9.8 provide a digital stamp to indicate the date and time a document is officially accepted as filed.

2.1.9.9 provide a digital stamp for Clerks to certify documents as the official court record.

2.1.9.10 provide for the delivery of electronically filed case information and/or documents for entry and retrieval into the Courts' CMS/DMS with "one click" methods or "hot keys" that do not require duplicative work on the part of court Clerks or clerical staff.

2.2 CONTROL FOR SYSTEM ACCESS AND USE

2.2.1 The Vendor system shall allow attorneys and self-represented litigants to obtain Logon IDs and passwords online, through an automated application process. The automated application process shall include provision for secure methods that will permit attorneys and self-represented litigants to retrieve a lost or forgotten ID and/or password. These Logon IDs and passwords shall be used to authenticate a self-represented litigant's or other party's identity and to "sign" each filed document. The Vendor system shall also provide functionality to allow either (1) the automated batch deactivation of this type of user's Logon ID and password after a time period specified by each of the Courts, or (2) the deactivation of an individual users access by court staff. To this end, it is expected that the Vendor system shall track the date each user was issued a Logon ID and password. The Vendor system shall also allow Court staff to sort the list of this group of users in date order to more easily determine which ones should be deactivated.

2.2.2 The Appellate Courts and MassCourts currently allow the assignment of a Logon ID and password for system access for judicial officers and staff users. Appellate and Trial Court staff currently log on for system use to various levels of access according to permissions granted. The Vendor shall propose security options that allow (1) the use of existing Logon IDs and passwords assigned to court users, and develop methods for permitting access according to their respective permissions, and (2) court staff's user access to the e-filing system through a CMS that grants permission to the user to perform e-filing tasks, and (3) via Login IDs, passwords and permissions that are separately administered.

2.2.3 The Draft Rules governing the pilot courts provide for a "digital" signature that is simply a specific format typed into documents requiring signatures; the Courts anticipate use of additional or different forms of digital signature for e-filers, and for documents emanating from the courts to e-filers. Vendors should be prepared to demonstrate the types of digital signatures that the Vendor system can use.

2.3 SECURITY

2.3.1 All security processing for the safe transmission of electronic files shall take place, as appropriate, during their transmission and immediately upon their receipt. To this end, the successful Vendor shall recommend a plan for providing security. This plan must be given the Courts' approval before implementation. At a minimum, Hypertext Transport Protocol Secure (HTTPS) and Secure Socket Layer (SSL) technology shall be used. The Plan must provide the following:

2.3.1.1 Validation, through appropriate security measures, that each transmitted electronic file was received in its entirety and without changes.

2.3.1.2 Validation, through appropriate security measures, that every electronic envelope,

document, and attachment received for filing contains no viruses, macros, scripts, other types of executable code or embedded objects that could place the Courts at risk.

- 2.3.1.3** Identification of and validation that any and all embedded documents contained within an electronic document, envelope or attachment received for filing have passed the same security checks provided for the parent document.

An electronic file that fails any of the above validation procedures shall be rejected by the system and an appropriate message shall be displayed to the filer. If an electronic file (envelope, document, or attachment) successfully passes the security checking procedures as outlined, and the XML envelope has been successfully completed, additional document checking shall include, but not be limited to, the following processes:

- 2.3.1.4** If a document is to be filed in an existing case file, the case number shall be validated after the e-filing system displays to the user the case name corresponding to that case number (assuming the case name is not impounded) and the filer then approves that it is the correct case for which the filing is intended.
- 2.3.1.5** Validation that the document was intended to be filed in a pilot court, and upon any expansion, in the court to which it states that it is directed.
- 2.3.1.6** Validation that the document's format is one of the Courts' acceptable choices: Portable Document Format (PDF), and, for documents intended for judicial modification and/or endorsement, Microsoft Word for Windows, WordPerfect for Windows, OpenOffice, or LibreOffice.
- 2.3.1.7** Additionally, word-processed, PDF or TIFF formatted *attachments* to electronic (parent) documents shall be allowed if submitted at the same time as the parent document and identified as being an "attachment" to the parent document in the envelope. The system shall validate word-processed attachments as being in one of the acceptable formats listed above. The system shall treat them as part of the document submitted for filing in the pilot court's case file.
- 2.3.1.8** Validation that each document and attachment meet the Courts' requirements for margins.

- 2.3.2** Any document or attachment that fails any of the above checks shall be rejected for by the system, and an appropriate message shall be displayed to the filer.

- 2.3.3** Online payment of filing fees shall be by use of HTTPS and SSL technology, at a minimum, for transaction processing. Routing of, and accounting for, the funds paid through the Vendor system shall be according to schedules made available to the successful Vendor. Vendors shall provide their recommended security plan, which must meet current Internet standards for credit card transactions and Electronic Funds Transfer. The Courts' approval must be obtained before implementation of any such plan.

- 2.3.4** Upon the successful completion of the security checks, submission validation and payment requirements described above, the Vendor system shall check to see whether the Courts' CMS and/or DMS system to which the filing is directed is operational. If the system to which the filing is directed is not operational, a limited document acceptance message, as described below, shall be immediately returned to the filer. If the system is operational, the Vendor system shall check the following criteria against existing information and a more complete document acceptance message shall be returned:

- 2.3.4.1** If the submitted document(s) are to be filed in an existing court case file, the case number shall be validated after the e-filing system displays to the user the case name corresponding to that case number (assuming the case name is not impounded) and the filer then approves that the case is the correct case for which the filing is intended.
- 2.3.4.2** If either of these two checks shows that invalid information has been provided, the Vendor system shall return to the last completed version of the envelope with the incorrect data element(s) highlighted. The Vendor system shall display an easily understood message to the filer regarding the invalid data and allow the filer to choose to either complete the form or withdraw the filing attempt by exiting the web site. Revision of the data and resubmission of the filing shall cause the same data validation checks to be completed again.
- 2.3.4.3** If these two checks show that valid information has been provided, the Vendor system, using the Courts' system functionality, shall assign and return a "sub" number for the document. This shall be included in the acceptance message described below. A "sub" number shall be provided for each separate document contained in the e-filing envelope.
- 2.3.5** If the submitted document is a case-initiating document (*i.e.*, a document that causes a new case to be opened), no further Vendor checking will be required. A document acceptance message shall be immediately returned to the filer with a system-provided case number. Case initiating documents shall be reviewed by the appropriate court clerk's staff and, if accepted, a court case number shall be provided.
- 2.3.6** Immediately upon completion of the security checks and data validations described above, the filer shall receive an online message, suitable for printing, either accepting the submitted document or rejecting the document submission. Any such message shall contain the date and time the document was received. The design and content of all message screens must be approved by the Courts before implementation.
- 2.3.6.1** Document acceptance and rejection messages shall also display, if appropriate, the case number and document "sub" number assigned. They shall also contain a unique acceptance tracking number assigned by the Vendor system. This tracking number shall be stored in the XML envelope. The document rejection message shall also contain the specific reason(s) for document rejection.

2.3.6.2 The filer shall have an opportunity, during the same on-line session, to correct deficiencies that have caused the rejection of his/her attempts to electronically file a document. If, at the user-initiated end of an on-line session, such deficiencies have not been successfully corrected, the filing shall be deemed unsuccessful and the submitted document(s) shall be finally rejected.

2.3.6.3 Documents that are received and accepted shall be immediately forwarded to the appropriate Clerk's Portal described *infra* in Section 2.9 for approval and further processing.

2.4 Additional Automated Response Capability

2.4.1 Additional automated response capability shall include, but not be limited to, the following:

2.4.1.1 E-mail communication for subsequent acceptance or rejection of the document for filing. This response to document filing is to be distinguished from the above-described response to document *submission* or *receipt*. Response messaging by e-mail shall have the inherent ability to be sent automatically by the Vendor system, or, at the Clerk's election, to bring the message up on the Courts' staff user's screen for editing prior to its transmission.

2.4.1.2 The e-mail response rejecting a document shall be initiated either by Vendor system's automated procedures or by the Courts' staff, and it may occur at any point during filing, indexing, or processing when a fatal error is encountered.

2.4.1.3 The e-mail response confirming successful filing shall be initiated either by automated procedures or by the Courts' staff upon the successful completion of processing. The system shall provide both automated and manual procedures for confirmation and rejection notices.

2.4.1.4 The design and content of all response messages must be approved by the Courts, whether for document rejection or acceptance, prior to implementation.

2.4.1.5 All *response* messages shall automatically include, without the need for re-entering data from the case record:

2.4.1.5.1 the date and time of message creation,

2.4.1.5.2 filer name,

2.4.1.5.3 filer mailing address,

2.4.1.5.4 BBO number, if filer is an attorney,

2.4.1.5.5 document name, and

2.4.1.5.6 case number (unless document opens a new case).

2.4.1.6 Other information may also be required if determined by the Courts to be necessary. The messaging system shall support automated querying of the XML envelope in which the document was received, as well as querying of the Server tables. It shall also

support query/response from the Courts. Data returned from such queries may be imbedded in the message itself.

- 2.4.1.7** Acceptance messages for successfully filed documents shall also include effective date and time of document filing, which will be based upon the submission or receipt date and determined as per the Draft Rules. This type of message is optional, that is, it may be sent by either the Courts' staff or the Vendor system, depending on the Courts' future assessment of the need.

A list of fatal errors that may occur during system filing, indexing, and processing shall be agreed upon by the successful Vendor and the Courts. In addition to the information described above, all messages shall automatically include information regarding any fatal error that caused the document to be rejected.

- 2.4.1.8** Individuals who may receive messages shall include but are not limited to the following:

- 2.4.1.8.1** Internal & external filers;
- 2.4.1.8.2** Other parties in the case;
- 2.4.1.8.3** Judicial officers and Pilot court staff;
- 2.4.1.8.4** Other Clerk's office staff; and
- 2.4.1.8.5** Appellate Court staff.

- 2.4.1.9** Automated interface with the appropriate Courts' e-mail functionality is encouraged for completion of this requirement. Each response message will be entered as an activity in a messaging activity log.

2.5 Courts' Functions

- 2.5.1** The successful Vendor shall implement a mechanism that replicates the general docketing function of the Courts' CMS, to allow for both the automatic and manual docketing into the Courts' systems of qualified, electronically filed documents, which are put into a new general docketing queue. As with workflow documents, certain data entry tasks shall be automated using the XML data set that has already been captured. The proposed system shall be configurable, allowing a system administrator to add or change courts, case types, document types, fines, fees, charges, and other court business rules.

- 2.5.2** The Courts' System Administrators shall be able to control, through table entries or otherwise, whether newly implemented automated document processing functionality, which is added for electronically filed documents, is on or off. The Courts must be able to switch the newly implemented automation on or off at will, to ensure that the Courts' System Administrators shall be able to return any document, any set of documents, or any work items to manual processing and control if automation is suspected of not functioning or not being able to function at full reliability. The ability to turn automation off and on shall be controlled through table entries, or another method, to be agreed upon.

- 2.5.3** E-Filing document staging: All documents received and accepted shall be committed to each court's CMS/DMS as rapidly as possible. In order to prevent document or data loss in the event of catastrophic system failure, additional electronic copies of these documents, together with related Court Filing XML envelopes and acknowledgements of document submission, must be held in a secure environment pending the success of appropriate backups. In the event of catastrophic failure of any of the Courts' systems, the Courts' systems shall be able to "restore" from the last backup and "roll forward" to current status, including re-entry of electronically filed documents.
- 2.5.4** Case and Document Management System: It shall be the responsibility of the successful Vendor to integrate the E-filing system's functionality with the various existing CMS/DMS components of the Courts. Such integration shall include provision for all needed modifications, upgrades and additions to the existing Court systems, by vendors selected by the Courts, so that the existing Court systems and E-filing shall operate seamlessly as an integrated system. Upon vendor request, the IT departments of the courts will provide responses to vendor's written questions regarding the Courts' infrastructure, hardware and software components.
- 2.5.5** Document rejection message: During manual processing and review, staff of the various courts shall have the capability to determine whether a "problem" document can be indexed and docketed through manual processing or must be rejected. If a document must be rejected, the Courts shall have the capability of sending an e-mail to the filer through the messaging capabilities described above.

2.6. Portal Standards

- 2.6.1** All portals described must be web-based and must meet accessibility standards promulgated or adopted by the Massachusetts' Information Technology Department (ITD), the Trial Court's Information Service (TCIS) department, and the Appellate Courts' IT Department (ACITD).
- 2.6.2** Any interactive web service must use XML schema following the OASIS Legal XML Electronic Court Filing specifications - <http://www.oasis-open.org/committees/legalxml-courtfilling/>
- 2.6.3** The entire Vendor-provided system will be monitored for availability as specified in Section 2.17. Vendor must expand the infrastructure as volume increases over time. Additionally, the system infrastructure must be constructed so that short-term volume increases can be handled with no overall effect to the system. See Section 2.17 for performance standards and service level.

2.7. Electronic Filing Connector Component

- 2.7.1** The Vendor will provide an appropriate electronic filing Connector to the Courts' infrastructure that will be able to support the transmission, inbound and outbound, of electronic filing materials. The system architecture will need to provide scalability in general as volume rises due to increased participation as well as providing scalability for spikes in daily traffic volumes.

- 2.7.2 The Inbound Connector will be a XML-based, secured, access-controlled web service that will allow the Vendor, as an EFSP, to submit filings to the Courts. The Connector must employ security so that the transmissions are encrypted and initiated from known hosts.
- 2.7.3 Upon a successful submission, the Connector must provide a success code and a confirmation number back to the filer. The Connector must then insert the filing and meta data into the Courts' infrastructure for further processing by the clerk's office.
- 2.7.4 If the filing is unsuccessful, the Connector must return an error code that can be deciphered by the filer for further action.
- 2.7.5 The Inbound EFM Connector must provide for the filer to be notified when a filing has been accepted or rejected. The Vendor system must provide back to the filer the following information:
 - 2.7.5.1 unique trace number of the filing
 - 2.7.5.2 the outcome of the filing (accepted, rejected or error)
 - 2.7.5.3 the date/time the outcome was determined

2.8. Attorney/Self-Represented Litigant Portal

- 2.8.1 The Vendor must provide a dedicated portal for Attorneys and Self-Represented Litigants. (Self-Represented Litigants are also called *Pro Se* Litigants.) Even though the portal is for two different audiences, the Vendor can customize a single portal based on the audience of the filer. At a minimum, the Portal must:
 - 2.8.1.1 Provide attorneys with a means to upload documents, assemble filings, submit the necessary fees and submit the filing.
 - 2.8.1.2 Provide self-represented litigants with a means to upload documents, assemble filings, submit the necessary fees and submit the filing. In addition, self-represented litigants must be provided with a means to complete electronically forms approved by the SJC and the Appeals Court, for their respective courts, and the Trial Court for forms used therein. The form data must be collected through an interactive "plain language" means and the form created after the fact or, at the user's option, the data may be collected directly by completing the form itself.
 - 2.8.1.3 Provide self-represented litigants with links or contact information to receive any necessary assistance.
 - 2.8.1.4 Process email confirmations back to the filer at appropriate times to provide notifications of filing status (accepted, rejected, etc).
 - 2.8.1.5 Interface with the Courts' infrastructure to submit the electronic filings.
 - 2.8.1.6 Ensure that filings that are submitted to the Courts' infrastructure are in PDF format, and have the capacity to ensure that the filings that are submitted are in a searchable PDF format, should the Courts' adopt a rule requiring such, and make provision for submission of documents in other word processing formats (Word, WordPerfect, OpenOffice or Libre Office) that can be used and modified by judges in preparing decisions, orders, etc.

2.9 Clerk Portal

2.9.1 The Clerk Portal must give the clerk's office in the recipient court access to review the documents needing to be filed and the option to accept or reject the filing.

2.9.2 If the clerk must reject the filing, a series of rejection reasons must be displayed to the clerk from which the clerk may select. The clerk must also be allowed to enter notes back to the filer to assist in the resolution of the rejection.

2.9.3 The Clerk Portal must also provide a means to:

2.9.3.1 View a listing of filings along with the name of the clerk/deputy clerk that is working on the filing. If no one is working on the filing, it should indicate that the filing is awaiting action from the clerk.

2.9.3.2 Filter the inbox of electronic filings by court, filing type, filing status and new suits/additional filings.

2.9.3.3 Indicate that the initial payment authorization failed.

2.9.4 View the following reports:

2.9.4.1 Daily and Monthly deposit report for a given date/month;

2.9.4.2 Itemized Deposit listing for a given date range;

2.9.4.3 Batch summary deposit listing including refunds;

2.9.4.4 Daily and Monthly Refund Report for a given date/month;

2.9.4.5 Breakout report detailing the collected amount and breakout between Court fees and Vendor's fees;

2.9.4.6 Itemized submission listing for a given date range.

2.9.5 Submit the acceptance of an electronic filing, and then complete the appropriate charge to the method of payment.

2.9.6 Submit the rejection of an electronic filing.

2.10 Electronic Service Module

2.10.1 If the Vendor's application provides for Electronic Service and the filer has elected to serve documents electronically, the Electronic Service Module must place appropriate documents in a "mailbox" provided for that purpose, and e-mail notification of such to the parties needing to be served. It must also send back confirmations to the original filer that the documents have been served electronically. The Vendor system must also accommodate electronic service to some parties to a case, and service by regular method by the filer to other parties to the case who have elected not to participate in electronic filing. The system must also keep appropriate log information so that the service of the documents can be confirmed. If the Vendor's application does not provide for Electronic Service, the Vendor must be prepared

to present a method or methods that the filer may use to effectuate service, both electronically, and by regular method to parties to the case who have elected not to participate in electronic filing.

2.11 Outbound EFM Connector

2.11.1 Once an electronic filing is accepted by the clerk, the document and meta information must be sent to the clerk (at a minimum) via secure file transfer (SFTP) and the Vendor via secure web service to permit the Case and/or Document Management Systems to pick up the meta data along with the electronic filing and create an appropriate case in the Courts' respective CMS/DMS to start the routine workflow of case processing. Additionally, the meta data upon export should contain limited financial data such as the payment amount, status and trace number.

2.12 Inbound Document Connector

2.12.1 The Inbound Document connector must be a XML-based, secured, access-controlled web service that will allow clerks to upload documents and or meta information into the Trial Courts' MassCourts system or the Appellate Courts' Forecourt and Livelihood systems (collectively the Courts' Document Storage Systems [DSS].).

2.12.2 Upon a successful submission, the Connector must provide a success code and a confirmation number back to the clerk. If the submission is unsuccessful, the Connector must return an error to the clerk's office.

2.12.3 Direct access to the Inbound Document Connector must be available to the Courts if sufficient technology resources exist to support it.

2.13 Document Loading Portal

2.13.1 The Vendor must create a portal that allows the clerk to upload documents into a Court's DSS. The portal must collect the document meta information and index the document and the meta information. Documents uploaded to the portal must conform to current technology standards. Any document that is electronically filed must be able to be rendered with high fidelity to originals, and be searchable, tagged and comply with accessibility requirements set out in this Section 2. The Vendor shall work with Courts' staff to upload rulings, orders, or any other documents into the DSS.

2.14 Payment Distribution

2.14.1 The Vendor will work with the Courts to develop Vendor system capability for distributing fees and funds collected to proper accounts both within the Courts, and with the Commonwealth.

2.15 External Entities

2.15.1 In time, other Commercial EFSPs may be given access to the Courts' CMS/DMS (or some of them), but the Vendor chosen as a result of this RFP, in consideration of its structuring

the pilot programs, will be given exclusive access to the system for at least one year after successful completion of the pilots and the Courts' awarding of the first one-year contract, as set out above; exclusive access to the Vendor shall also be granted for any extension of the contract after the first year, for a maximum of four such extensions.

- 2.15.2** When accepting an electronic filing by way of the Attorney/Self-Represented Litigant Portal, the Vendor must validate that, for an attorney filer, the Board of Bar Overseers number submitted validates to an attorney currently authorized to practice law in the Commonwealth of Massachusetts. The Vendor must work with the Board of Bar Overseers to utilize a web service to validate the attorney identification entered. Upon submission of documents to the court, if the identification does not yield an attorney authorized to practice law in Massachusetts, an error must be generated and returned to the filer. A bypass mechanism must be in place for self-represented (pro-se) litigants.
- 2.15.3** The Trial Court will provide and manage data exchange for a variety of governmental case initiation and activity, (e.g. electronic filings in civil motor vehicle cases (CMVIs), petitions in child welfare cases filed by the Department of Children and Families, electronic applications criminal complaints from police departments, etc) using proprietary applications developed by the Trial Court, and certain applications developed through a TIG grant for the Courts' Access to Justice (A2J) program, without the need for the Vendor's services. However, a number of Massachusetts governmental agencies (e.g. the office of the Attorney General of Massachusetts, agencies assisting in the filing of petitions under G.L. 209A, etc) engage in unique case litigation either as plaintiff or defendant. In such cases, the Vendor will provide e-filing services with regard to such cases, at no cost to the governmental agencies. In addition, with respect to cases filed through the Trial Court's proprietary applications, both civil and criminal, a need for Vendor's e-filing services, either by the governmental agency or other parties to the case. may arise (e.g. a private attorney in a criminal case may need e-filing services for filing a motion to suppress). The Vendor must be prepared to offer such e-filing services, again, with no charge to any governmental agency using such service, but with regular charges or waiver with regard to non-governmental parties.

2.16 Performance Standards and Reporting

- 2.16.1** The selected Vendor must report on a monthly basis to the Courts at least the following information:
- 2.16.1.1** A list of the Courts (by county, by court type) along with the number of electronic filings processed into the court by the Attorney/Self-Represented Litigant Portal.
 - 2.16.1.2** The number of calls to the Vendor's customer service desk
 - 2.16.1.3** The number of calls dropped while waiting to speak to customer service
 - 2.16.1.4** The number of incident tickets raised, the number of tickets resolved, and the average time to resolution. These numbers should be grouped by ticket type
 - 2.16.1.5** System outages (both planned and unplanned) along with the amount of time the system was unavailable
 - 2.16.1.6** Copies of any root cause analysis (due to an unplanned outage) from the past month
 - 2.16.1.7** Verification of the number of documents, including the number document arriving

corrupted through the system.

2.16.1.8 Any security incidents and responses to them

2.16.1.9 Statistical information as noted in Section 2.17 below that indicates the expected service levels are being met. If any expected level is not met, the Vendor must provide a written plan (and must execute the plan) to resolve the issues(s) that contribute to the failure to meet the service level.

2.16.1.10 Amount expended to date on development and ongoing operations.

2.16.1.11 Amount in fees collected for the Vendor to date.

2.17 Expected Service Levels

2.17.1 The Vendor must meet the following service levels each month. Vendor must provide enforcement measures for the Courts to use to ensure that performance levels are met. Any Vendor-proposed enforcement measures are in addition to existing default and termination provisions already provided for in this RFP.

2.17.2 Application Availability – the ability for the Courts to retrieve HTTP or XML headers from the application component.

2.17.3 The Vendor must guarantee a 99.9% monthly average of scheduled availability for each of the application components listed in Sections 2.3, 2.4, and 2.5.

2.17.4 Application Monitoring - The Vendor must ping the HTTP and XML services by retrieving appropriate headers every 5 minutes with a 30-second threshold. If a service does not respond to two consecutive pings, the service will be considered non-operational and the failure to respond will count against the application's availability.

2.17.5 Application Performance - The Vendor must use third-party measuring tools to track the time each web server request takes to complete within Vendor's network (excludes actual delivery to client).

2.17.6 If the service does not meet any of the following criteria, each instance of non-compliance will count against the application's availability:

2.17.6.1 90% of all read-only display pages (non-documents) must be completed by the web/application servers in less than 2 seconds

2.17.6.2 98% of all read-only display pages (non-documents) must be completed by the web/application servers in less than 4 seconds

2.17.6.3 98% of all update pages must be completed by the web/application servers in less than 30 seconds

2.17.6.4 Once accepted by the clerk's office, 100% of filings must be transmitted within 60 minutes.

2.17.7 Customer Service to Clerks/Courts:

2.17.7.1 Issues reported by Clerks/Courts to the Vendor's Support Team during regular business hours (8AM – 5PM Eastern time, Monday – Friday) must be acknowledged within 15 minutes. User must receive response by email. Realizing that there are critical times during the business day, Vendor must explain any pricing differences that may exist based on different support models.

2.17.7.2 Issues reported by Clerks/Courts to the Support Team outside of regular business hours must be acknowledged and responded to within 60 minutes. User must receive response by email.

2.17.7.3 In the event of an outage or a significant processing delay, Clerks/Courts must be notified within 15 minutes by email that includes a brief description of the problem and the estimated time of the next update or resolution of the problem.

2.18 **Fiscal Reporting**

2.18.1 The Vendor must work with the Courts, the Office of Court Management's Fiscal Office Department, and the Commonwealth's Treasurer's and Comptroller's offices to ensure accurate financial reporting. All monies reported by the Vendor must match the Courts' settlement processes and reports. The Vendor must work with the above to resolve and distinguish discrepancies. Those discrepancies must be reported to the appropriate Court immediately to help the Courts to close out their financial reporting each day.

2.19 **Network Availability**

2.19.1 Any network used by the Vendor in addition to that of the Courts must remain up 99.99% of the time.

2.19.2 Interruptions of network service due to the Internet backbone, or the Courts' networks, or denial of service (or similar) attacks are beyond the control of the Vendor and will not be included in the uptime calculations.

2.20 **System Architecture**

2.20.1 All servers and network equipment used by and under control of the Vendor for this system shall be supported by the equipment's manufacturer and have all applicable software updates and patches applied.

2.20.2 The Vendor must perform server maintenance on a routine basis to ensure optimal server performance. In some cases, servers will need to be taken off-line to perform this maintenance. Vendor may take a server off-line for maintenance for up to two hours per month per server provided that the Courts have given prior approval of the server

maintenance window. The maintenance window will normally be during off-peak hours. The Vendor must also provide advance notice to the Courts, and others with access to the system, of upcoming off-line maintenance, and provide an interface that allows Courts' system administrators to electronically post maintenance schedules and other notices of interest to the electronic filing community.

2.21 Customer Support

2.21.1 The selected Vendor must provide customer support to all categories of end-users 24 hours/day. Vendor's support must be sufficiently wide (varying end-user groups) and deep (varying technical abilities). Customer support may be heavy at certain times of the day (beginning of the work day, end of the work day, end of the day) and staffing for support may need to flex with busy times. The Vendor must provide a filer interface that allows the filer to query on court rules and requirements for electronic filing.

2.21.2 The Vendor shall provide a written proposal for on-going technical support of the product. The proposal shall discuss Help Desk support and problem resolution including:

2.21.2.1 Access method(s) (such as a 1.-800 number, Internet, email, remote diagnosis);

2.21.2.2 Days and hours of operation and after-hours coverage, including initial response time commitments for each;

2.21.2.3 Problem logging and tracking mechanism;

2.21.2.4 Documentation of problem history and resolution;

2.21.2.5 Definitions of the various levels of problem severity;

2.21.2.6 Average response time between defect report and installed fix, by severity;

2.21.2.7 Application and distribution process for system fixes;

2.21.2.8 Escalation process for unresolved critical problems;

2.21.2.9 How any third party software incorporated as part of the system shall be supported;

2.21.2.10 Availability of user discussion groups;

2.21.2.11 Availability of newsletters.

Section 3 Proposal Information

3.1 Schedule of Events

It is the Courts' plan to proceed according to the schedule below for the solicitation process:

| EVENT | DATE | TIME |
|--------------------------------------|--------------------|------------|
| Issue RFP | December 7, 2012 | n/a |
| Vendor's Conference | December 28 , 2012 | 1:00 p.m. |
| Deadline for Submission of Questions | January 11, 2013 | 3:00 p.m. |
| Deadline for Submission of Proposals | January 25, 2013 | 3:00 p.m. |
| Proposal Opening | January 25 , 2013 | 4:000 p.m. |
| Product Demonstrations, if requested | TBD | various |
| Expected Award of Contract | March 1, 2013 | n/a |

3.2 Revisions to Schedule

3.2.1 The Courts reserve the right to change the dates in the Schedule of Events. For Deadline for Submission of Proposals and Proposal Opening, written notification to prospective Vendors will be provided through a posting on Comm-PASS, the Commonwealth's procurement Web page.

3.3 Vendor Conference

3.3.1 The Courts will host a conference for potential Vendors, on December 28, 2012 at 1:00 P.M. EST. The location of the Vendor's conference is at the Trial Court's Information Service office, 3 Center Plaza, 7th Floor, Boston, MA 02108. A Vendor may participate by telephone conference, if it chooses not to attend in person. A Vendor who chooses to participate by telephone conference shall be limited to a single call from one location.

3.4 Proposal Requirements

3.4.1 Costs. Vendors are responsible for all costs of Proposal preparation.

3.4.2 No copyrights. The Courts will not consider any Proposal that bears a copyright. Proposals may be subject to disclosure. This disclosure may only occur after evaluation of all Proposals and an award is made.

3.4.3 Pricing Submission. The Pricing Submission (Exhibit F attached) must be fully completed and submitted separately from the Requirements Submission. No price information may be included in any other portion of the Proposal. The Pricing Submission must demonstrate that the solution proposed is of no cost to the Commonwealth. The Pricing Submission must be clearly marked with the title: "RFP # ##### PRICING SUBMISSION for Electronic Filing." The Pricing Submission shall

include Vendor's name.

- 3.4.4 Requirements Submissions.** Vendors shall submit one electronic copy of the Proposal. The electronic copy must be formatted as searchable PDF files and stored on a standard USB drive, CD, or DVD. The electronic copy may not contain audio or video or use embedded fonts. Submission pages must be numbered and contain an organized, paginated table of contents corresponding to the sections of the Statement of Work. Vendors shall provide a detailed narrative response for each specification and for each requirement to show how the Vendor intends to meet each. If the Vendor responds with "comply" to a specification, then supporting information is required to explain how the Vendor will comply with each requirement. Vendors shall include all required information to be returned with its response as specified in the individual section numbers.
- 3.4.5 Proposal Content Sections.** Listed below is a summary of information required to be included in a proposal responding to this RFP in addition to the Pricing Submission and Requirements Submission. The Courts reserve the right, in their sole judgment and discretion, to waive minor technicalities and errors in the best interest of the Commonwealth.
- 3.4.6 Vendor Information.** Include the following information related to the responding business entity: formal name and all assumed names used by the business entity; structure of business entity (i.e., sole proprietorship, partnership, corporation, etc.); state in which business entity was formed or incorporated; physical address and mailing address; principal place of business; whether, and to what extent, Vendor has established a physical presence in the Commonwealth of Massachusetts including relevant timeframes; and name, title, address, telephone number, facsimile number, and e-mail address of Vendor's primary contact.
- 3.4.7 High-Level Project Plan.** Include a project plan that outlines a timeline for implementation of the system, including dates by which the court pilots shall be implemented.
- 3.4.8 Experience and Qualifications.** Complete and provide the Vendor Questionnaire included as Exhibit E in this RFP. The questionnaire solicits information about Vendor's contacts, references, previous contract terminations, experience, and personnel (including employees and subcontractors).
- 3.4.9 Financial Solvency and Insurance Information.** Include Vendor's most recent annual financial report or year-end financial statements, and proof of liability insurance and workers compensation coverage.
- 3.4.10 Statement of Objectivity.** It is the policy of the Commonwealth of Massachusetts that a Commonwealth officer or Commonwealth employee may not have a direct or indirect interest, including financial and other interests, or engage in a business transaction or professional activity, or incur any obligation of any nature that is in substantial conflict with the proper discharge of the officer's or employee's duties in the public interest. Vendor must include a Statement that Vendor has no actual or potential conflicts of

interest in providing services under the Contract and that Vendor's provision of services under the Contract would not reasonably create an appearance of impropriety. The Courts may conditionally accept a proposal without this Statement, but may not award a contract without it.

3.4.11 Execution of Proposal. The Courts will reject proposals without an Execution of Proposal (included as Exhibit D to this RFP) signed by a person with authority to bind the Vendor to a contract.

3.4.12 Exempt from Public Disclosure. Vendor must clearly identify any records or text submitted in response to this RFP that Vendor believes to be confidential and exempt from public disclosure. This information is solely for the purpose of assisting the Courts in responding to requests for records from the public. If a request is made and the Courts do not release records identified as confidential by Vendor, the Courts' decision may be appealed, and the Courts' cannot guarantee that the records identified as confidential by Vendor are in fact exempt from disclosure.

3.5 Inquiries

3.5.1 Any inquiries concerning the Trial Court shall be submitted in writing to Craig Burlingame, Chief Information Officer at craig.burlingame@jud.state.ma.us with a carbon copy (cc:) to Marjorie Dillon at marjorie.dillon@jud.state.ma.us, by 3:00 p.m. Eastern daylight savings time on January 9, 2013, as specified in Section 3.1 above. Inquiries for the Appellate Courts should be submitted as above; they will be forwarded to the Appellate Courts' Executive Director and CIO.

3.5.2 The Courts will post written responses to inquiries on the Commonwealth's Web page Comm-Pass at <http://www.comm-pass.com/>.

3.5.3 Except as otherwise provided in this Section, upon issuance of this RFP, other employees and representatives of the Courts will not answer questions or otherwise discuss the contents of the RFP with any potential Vendor or its representatives. Failure to observe this restriction may result in disqualification of any response. This restriction does not preclude discussions unrelated to this RFP.

3.6 Proposal Submission

3.6.1 All Proposals shall be received at the Courts by January 25, 2013, at 3:00 p.m., as specified in the Schedule of Events in Section 3.1. Vendor should obtain a time-stamp on Proposals received on the deadline date. The Courts will reject late submittals.

3.6.2 Proposals must be placed in a separate envelope or package and be clearly marked "**Proposal for Trial and Appellate Courts # #####**" and "**Attention Craig Burlingame and David Lucal**". It is Vendor's responsibility to appropriately mark and deliver the Proposal to the Courts by the specified date and time.

3.6.3 Telephone, facsimile, or e-mail Proposals will not be accepted.

3.6.4 Proposals shall be submitted to the Courts by one of the following methods:

| U.S. Postal Service | Overnight/Express Mail | Hand Delivery |
|--|--|--|
| <p>Trial Court of the Commonwealth Attn. Craig D. Burlingame 2 Center Plaza, 5th Floor Boston MA 02108</p> <p>David Lucal, Esq. Supreme Judicial Court John Adams Courthouse One Pemberton Square Boston MA 02108</p> | <p>Trial Court of the Commonwealth Attn. Craig D. Burlingame 2 Center Plaza, 5th Floor Boston MA 02108</p> <p>David Lucal, Esq. Supreme Judicial Court John Adams Courthouse One Pemberton Square Boston MA 02108</p> | <p>Same address as mail</p> <p>Hours:9:00 a.m. to 4:30 p.m. Monday through Friday, except Commonwealth of Massachusetts holidays</p> |

3.7 Proposal Opening

- 3.7.1** Proposals will be opened at the Trial Court Information Service office, 3 Center Plaza, 7th Floor, Boston, Massachusetts. All submitted Proposals become the property of the Courts after submission. Submitted Proposals shall constitute a proposal to contract for a period of ninety (90) days or until the Courts make a selection, whichever occurs earlier.

3.8 Proposal Evaluation and Award

- 3.8.1** An Evaluation Committee will be established prior to the date designated in the Procurement Schedule for the return of vendor proposals. The Vendor will provide fifteen copies of its proposal for use by the Evaluation Committee and the Courts' administrative offices. The Evaluation Committee will be involved in each phase of evaluation as detailed in this RFP. The Evaluation Committee will be restricted from contact with any vendor outside of the parameters defined in the No Contact Policy from the release date of the RFP through the evaluation process. The Evaluation Committee will document its findings to the SJC, the Appeals Court, the CJTC, the CA and the CIOs of the Appellate and Trial Courts.
- 3.8.2** The Courts will award a contract to the Vendor whose proposal is considered to provide the best value to the Courts. Best value will be determined by applying the following criteria and assigned weighted values: technology match - 15%, business requirement match - 30%, company qualifications – 10%, company references -15%, and pricing to users - 30%.
- 3.8.3** The Evaluation Committee will determine whether Best and Final Proposals are necessary. Award of a contract may be made without Best and Final Proposals. The Courts may, at their discretion, elect to have Vendors provide oral presentations and respond to inquiries from the Evaluation Committee related to their Proposals. A request for a Best and Final Proposal is at the sole discretion of the Courts and will be extended in writing.

3.8.4 In evaluating Proposals to determine the best value, the Courts may consider information related to past contract performance of a Vendor.

3.9 Offer for Discussion/Negotiation and/or Oral Presentation/Product Demonstration

3.9.1 After receipt of proposals and prior to the recommendation of award, the Courts may initiate discussions with one or more vendors should clarification or negotiation be necessary. Vendors may also be required to make an oral presentation and/or product demonstration to clarify their RFP response or to further define their offer. In either case, vendors should be prepared to send qualified personnel to Boston, Massachusetts to discuss technical and contractual aspects of their proposal. Oral presentations and product demonstrations, if requested, shall be at the Vendor's expense.

3.10 Reservation of Rights

3.10.1 The Courts reserve the right to reject any and all proposals, or to re-solicit or cancel this RFP, if such action is deemed in the best interest of the Commonwealth of Massachusetts or the Courts.

Section 4. General Terms and Conditions

4.1 Proposal and Acceptance

4.1.1 A Proposal submitted in response to this RFP is a proposal to contract based upon the terms, conditions, and specifications contained herein. The proposal must include completed Exhibits G and H. The proposal is accepted when the Courts issue a writing accepting a proposal. The parties shall then execute a contract consisting of the documents set out in 4.2 below. The selected Vendor shall be referred to as the Vendor.

4.2 Contract Documents

4.2.1 The contract documents will consist of the following:

4.2.1.1 The executed writing accepting the proposal;

4.2.1.2 Commonwealth of Massachusetts Standard Contract Form

4.2.1.3 Any written Addenda or Amendments;

4.2.1.4 The RFP, including the General Terms and Conditions;

4.2.1.5 Any Best and Final Proposal (BAFO) submitted by the Vendor; and

4.2.1.6 The Proposal (including attachments, appendices, and exhibits).

4.2.2 The contract documents are incorporated in the Contract for all purposes and contain the entire agreement between the Vendor and the Courts. In the event of a conflict between the documents listed in this paragraph, the documents will control in the order of precedence listed above beginning with 4.2.1.1, then 4.2.1.2, then 4.2.1.3, then 4.2.1.4, then 4.2.1.5, then 4.2.1.6. In the event and to the extent any provisions in multiple documents address the same or substantially the same subject matter but do not actually conflict, the more recent provisions shall be deemed to have superseded the earlier provisions. Any modification, alteration, or waiver of any term, covenant, or condition of the Contract and any attachments shall be in writing and executed by the Courts and the Vendor.

4.3 Standards of Services

4.3.1 Vendor shall provide all of the above services and all reasonably related services in accordance with applicable professional standards of a Vendor providing systems development and related services. Vendor represents and warrants that it has the requisite qualifications, experience, personnel and other resources to perform in the manner required by this Contract.

4.4 Project Manager

4.4.1 The Courts will designate a Project Manager for the Trial Court and a Project Manager for the Appellate Courts (who may be the same person) to serve as the point of contact between the Courts and Vendor. The Courts' Project Manager(s) shall supervise the Courts' review of Vendor's technical work, deliverables, draft reports, final reports, schedules, financial budget administration and similar matters. The Project Manager(s) has no express or implied authority to vary the terms of the Contract, amend the Contract in any way or waive strict performance of the terms or conditions of the Contract.

4.5 Personnel

4.5.1 Vendor shall assign only qualified personnel to this Contract. Before execution of the purchase order, the Courts' Contract Manager(s) shall authorize the key personnel designated in the Proposal to provide services under this Contract. Vendor may substitute appropriate key personnel to accomplish its duties so long as the substituted personnel are equally qualified and skilled in the tasks necessary to accomplish the contractually required services, but any substituted personnel also must be approved by the Courts' Contract Manager(s). Vendor shall provide to the Courts prior written notice of any proposed change in key personnel involved in providing services under this Contract.

4.5.2 Subcontractors providing services under the Contract shall meet the same requirements and level of experience as required of Vendor. No subcontract shall relieve Vendor of responsibility for ensuring the contractually required services are provided,. If Vendor

uses a subcontractor for any or all of the work required, the following conditions shall apply:

4.5.2.1 Vendors planning to subcontract all or a portion of the work to be performed shall identify the proposed subcontractors.

4.5.2.2 Subcontracting shall be solely at Vendor's expense.

4.5.2.3 The Courts retain the right to check subcontractor's background and approve or reject the use of submitted subcontractors.

4.5.2.4 Vendor shall be the sole contact for the Courts. Vendor shall list a designated point of contact for all of the Courts' inquiries.

4.6 Term and Termination

4.6.1 The Contract shall become effective on the execution date and shall end no later than August 31, 2017 unless otherwise sooner terminated as provided in this RFP. The Contract may be extended for up to four (4) one-year terms at the same price, terms, and conditions upon written agreement of the Courts and Vendor prior to the expiration of the terms being extended. Provisions herein regarding confidentiality, indemnification, transition, records, right to audit and independent audit, property rights, dispute resolution, invoice and fees verification, and default shall survive the termination or expiration dates of the Contract.

4.6.2 Vendor must work with its successor to ensure a smooth transition to any new EFSP. After 24 months of service, by providing ninety (90) days' written notice to Vendor by certified mail, return receipt requested or by facsimile, the Courts may terminate the contract within the Courts' sole discretion.

4.6.3 Within one calendar week of expiration of the Contract or termination for any reason, Vendor must return all searchable records to the appropriate clerks at no cost to the Courts.

4.7 Public Access to Records

4.7.1 All RFP and contract documents and information, and any report, analysis or data generated as a result of the contract services may be subject to public disclosure. The Courts will notify Vendor of any requests received by the Courts for records that Vendor has identified as confidential in its response to this RFP.

4.8 Confidentiality

4.8.1 Vendor agrees to maintain and shall execute a confidentiality agreement safeguarding the confidentiality of information received from the Commonwealth of Massachusetts and the Courts during the performance of this Contract, including but not limited to personal information such as social security numbers.

4.9 Insurance and Other Security

4.9.1 Within five (5) business days of executing this agreement, Vendor shall provide the Courts with current certificates of insurance or other proof acceptable to the Courts of the following coverage:

4.9.1.1 Standard Workers Compensation Insurance covering all personnel who will provide services under this Contract and endorsed with a waiver of subrogation against the Commonwealth and the Courts, and their respective officers and employees, for bodily injury (including death), property damage or any other loss;

4.9.1.2 Commercial General Liability Insurance with, at a minimum, the following limits: \$500,000 minimum each occurrence; \$1,000,000 per general aggregate; and

4.9.1.3 Professional Liability (Errors and Omissions Liability) and Cyber Risk Insurance covering acts, errors, and omissions arising out of Vendor's operations or services with minimum limits of \$1,000,000 per occurrence, \$2,000,000 annual aggregate.

4.9.2 All such coverage shall be with companies licensed in the Commonwealth of Massachusetts, with "A" rating from Best, and authorized to provide the corresponding coverage. All policies shall contain endorsements prohibiting cancellation except upon at least thirty (30) days' prior written notice to the Courts. Vendor shall maintain the above insurance coverage during the term of this Contract, and shall provide the Courts with an executed copy of the policies within thirty days of the execution of the contract.

4.10 Indemnification

4.10.1 Vendor shall defend, indemnify, and hold harmless the Commonwealth of Massachusetts and its officers and employees, and the courts and its officers, employees and contractors from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, arising out of, connected with, or resulting from any acts or omissions of Vendor or any agent, employee, subcontractor, or supplier of Vendor in the execution or performance of the contract. Vendor shall coordinate its defense with the Massachusetts Attorney General's office as requested by the Courts.

4.10.2 Paragraph 4.10.1 is not intended to and shall not be construed to require Vendor to indemnify or hold harmless the Commonwealth or the Courts for any claims or liability resulting from negligent acts or omissions of the Courts or their employees.

4.11 Amendments

4.11.1 The Contract may be amended only upon written agreement between the Courts and Vendor; however, any amendment of this Contract that conflicts with the laws of the Commonwealth of Massachusetts shall be void *ab initio*.

4.12 Applicable Law; Venue

4.12.1 This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts. The venue of any suit arising under this Contract is fixed in any court of competent jurisdiction in Suffolk County, Massachusetts, including the Federal District Court of Massachusetts.

4.13 Strict Compliance

4.13.1 Time is of the essence in the performance of the Contract. Vendor shall strictly comply with all of the contract deadlines, requirements, and performance standards, and failure to so do will constitute a breach of the Contract.

4.14 Assignments

4.14.1 Without the prior written consent of the Courts, Vendor may not assign this Contract, in whole or in part, and may not assign any right or duty required under it.

4.15 Federal, Commonwealth and Local Requirements

4.15.1 Vendor shall demonstrate on-site compliance with the Federal Tax Reform Act of 1986, Section 1706, amending Section 530 of the Revenue Act of 1978, dealing with issuance of Form W-2's to common-law employees. Vendor is responsible for both Federal and Commonwealth unemployment insurance coverage. Vendor shall comply with all Federal and Commonwealth tax laws and withholding requirements. Neither the Commonwealth of Massachusetts nor the Courts shall be liable to Vendor or its employees for any unemployment or workers' compensation coverage, or Federal or Commonwealth withholding requirements. Vendor shall indemnify the Commonwealth of Massachusetts and/or the Courts, and shall pay all costs, penalties, or losses resulting from Vendor's omission or breach of the responsibilities set forth in this Section.

4.16 Severability Clause

4.16.1 In the event that any provision of the Contract is later determined to be invalid, void, or unenforceable, then its remaining terms, provisions, covenants, and conditions shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.

4.17 Applicable Law and Conforming Amendments

4.17.1 Vendor must comply with all current and amended laws, regulations, requirements and guidelines applicable to a Vendor providing services to the Commonwealth of Massachusetts as those laws exist and as they are amended throughout the term of the Contract. The Courts reserve the right, in their sole discretion, to unilaterally amend the Contract throughout its term to incorporate any modifications necessary for the Courts' or Vendor's compliance with all applicable Commonwealth and Federal laws and regulations.

4.18 No Waiver

4.18.1 Nothing in the Contract shall be construed as a waiver of the Commonwealth's sovereign immunity. The Contract shall not constitute nor be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the Commonwealth of Massachusetts or the Courts. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the Commonwealth of Massachusetts under the Contract or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities nor be considered as a basis for estoppel. The Courts do not waive any privileges, rights, defenses, or immunities available to the Courts by entering into the Contract or by their conduct prior to or subsequent to entering into the Contract.

4.19 No Liability upon Termination

4.19.1 If the Contract is terminated for any reason, the Courts and the Commonwealth of Massachusetts shall not be liable to Vendor for any damages, claims, losses, or any other amounts arising from or related to any such termination.

4.20 Independent Contractor

4.20.1 Vendor or Vendor's employees, representatives, agents and any subcontractors shall serve as an independent contractor in providing services under this Contract. Vendor or Vendor's employees, representatives, agents and any subcontractors shall not be employees, special employees or agents of the Commonwealth of Massachusetts and shall not be entitled to benefits of Commonwealth employment such as retirement or leave benefits. Should Vendor subcontract any of the services required in this Contract, the Courts are in no manner liable to any subcontractor(s) of Vendor.

4.21 Limitation of Authority

4.21.1 Vendor shall have no authority to act for or on behalf of the Courts or the Commonwealth of Massachusetts except as expressly provided for in this Contract; no other authority, power or use is granted or implied. Vendor may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of the Commonwealth of Massachusetts or the Courts.

4.22 Intellectual Property Claims

4.22.1 Vendor shall indemnify, save and hold harmless the Commonwealth of Massachusetts and the Courts from and against claims of patent, trademark, copyright, trade secret or other proprietary rights, violations or infringements arising from the Commonwealth's, the Courts', or Vendor's use of or acquisition of any services, software, or other items provided to the Commonwealth of Massachusetts or the Courts by Vendor or otherwise to which the Commonwealth of Massachusetts or the Courts has access as a result of Vendor's performance under this Contract, provided that the Courts shall notify Vendor of any such claim within a reasonable time of receiving notice of any such claim. If Vendor is notified of any claim subject to this Section, Vendor shall notify the Courts of

such claim within five (5) business days of such notice. No settlement of any such claim shall be made by Vendor without the Courts' prior written approval. Vendor shall reimburse the Commonwealth of Massachusetts and the Courts for any claims, damages, losses, costs, expenses, judgments or any other amounts, including, but not limited to, attorneys' fees and court costs, arising from any such claim. Vendor shall pay all reasonable costs of the Commonwealth's and the Courts' counsel and shall also pay costs of multiple counsel, if required to avoid conflicts of interest. Vendor represents that it has determined what licenses, patents and permits are required under this Contract and has acquired all such licenses, patents and permits. In the event that Vendor loses the right to allow the Commonwealth to use any technology under this indemnification, then Vendor shall repay the Commonwealth all monies paid under this Contract.

4.23 Supporting Documents

4.23.1 Vendor shall maintain and retain supporting fiscal and any other documents relevant to payments and expenditures under the Contract. Vendor shall maintain all such documents and other records relating to this Contract and the Commonwealth's property for a period of four (4) years after the termination of the Contract or the resolution of all billing questions, whichever is later. Vendor and any subcontractors shall provide the Commonwealth's, or the Courts' Auditors with any information that the Auditors or any of them deems relevant to any investigation or audit. Vendor must retain all work and supporting documents pertaining to this Contract for a period of four (4) years after its end date for purposes of inspecting, monitoring, auditing, or evaluation by the Courts and any authorized agency of the Commonwealth of Massachusetts, including an investigation by the Commonwealth's Auditor.

4.24 Access to Records

4.24.1 Vendor shall cooperate with any authorized agents of the Commonwealth of Massachusetts and/or the Courts, and shall provide them with prompt access to all of such Vendor's work as requested. Vendor's failure to comply with this Section shall constitute a material breach of the Contract and shall authorize the Courts and/or the Commonwealth of Massachusetts to immediately assess appropriate [liquidated?] damages for such failure. The acceptance of funds by Vendor or any other entity or person directly under the Contract, or indirectly through a subcontract under the Contract, shall constitute acceptance of the authority of the Commonwealth's Auditor, Inspector General or Comptroller or other agency of the Commonwealth of Massachusetts, and/or the Courts, to conduct an audit or investigation in connection with those funds. Vendor shall ensure that this paragraph concerning the Commonwealth's and the Courts' authority to audit funds received indirectly by subcontractors through Vendor and the requirement to cooperate are included in any subcontract Vendor awards.

4.25 Felony Criminal Convictions

4.25.1 Vendor shall fully disclose to the Courts the facts and circumstances giving rise to or resulting in a conviction of a felony criminal offense of Vendor or any subcontractor, or of any of their employees who are assigned to or associated with this project. Such facts and circumstances shall be disclosed whether or not they are related in any way to this project.

4.26 Notices

4.26.1 Any written notices required under this Contract shall be either by hand delivery or by certified U.S. Mail, return receipt requested, and shall be effective on receipt by the affected party. The address for Vendor will be the address specified in the Proposal. The address for the Courts will be that specified in Section 3 of this RFP. Either party may change its designated notice address by written notification to the other party.

4.27 Debts or Delinquencies to the Commonwealth

4.27.1 The Comptroller is prohibited from issuing any payment to a person or entity reported to have an indebtedness or delinquency to the Commonwealth. To the extent that Vendor owes any debt or delinquent taxes to the Commonwealth of Massachusetts, any payments or other amounts Vendor is otherwise entitled to or owed under this Contract shall be applied toward the debt or delinquent taxes until the debt or delinquent taxes are paid in full. Vendor agrees to comply with all applicable laws regarding satisfaction of debts or delinquencies to the Commonwealth of Massachusetts.

4.28 Electronic and Information Resources Accessibility Standards

4.28.1 Vendor shall provide the Courts with the URL to its Voluntary Product Accessibility Template (VPAT) for reviewing compliance with the Accessibility requirements by Federal standards established under Section 508 of the Rehabilitation Act, or indicate that the product/service accessibility information is available from the General Services Administration “Buy Accessible Wizard” (<http://www.buyaccessible.gov>). If Vendor is not listed with the “Buy Accessible Wizard” or does not supply a URL to its VPAT, Vendor must provide the Courts with a report that addresses the same accessibility criteria in substantively the same format. Additional information regarding the “Buy Accessible Wizard” or obtaining a copy of the VPAT is listed at <http://www.section508.gov/>.

4.29 Policy Compliance

4.29.1 Vendor’s employees and agents (including subcontractors and their employees and agents) identified by the Courts’ management as having sufficient presence on the Courts’ premises shall be required to adhere to the Courts’ applicable human resources, information services, and finance and operations policies, and may be required to attend one or more policy orientation sessions. Those employees and agents identified as

having access to Commonwealth of Massachusetts information resources and information resources technologies may be subject to periodic criminal history record investigations.

4.30 Force Majeure

4.30.1 Neither Vendor nor the Courts shall be liable to the other for any delay in, or failure of performance, of any requirement included in any contract resulting from this RFP caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing, with proof of receipt, within three (3) business days of the existence of such force majeure, or otherwise waive this right as a defense.

4.31 Default

4.31.1 If Vendor is in default under any provision of the Contract, the Courts may cancel the Contract without notice and either re-solicit or award the contract to the next best responsive and responsible Vendor. The defaulting Vendor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the specification or scope of work is significantly changed. In the event of abandonment or default, Vendor shall pay damages to the Courts including but not limited to re-procurement costs, and any consequential damages to the Commonwealth of Massachusetts or the Courts resulting from Vendor's non-performance.

4.32 False Statements/Breach of Representations

4.32.1 Any false statements by Vendor in the Contract documents or violation by Vendor of any of the representations, warranties, guarantees, certifications or affirmations included in the Contract shall constitute default by Vendor, and the Courts may terminate or void the Contract for cause based upon such false statements or violations and pursue other remedies available to the Courts under the Contract or applicable law.

Exhibit A – Case Filing Types

As noted above, the pilot programs will involve e-filing the following case types:

Supreme Judicial Court – Clerk for the Commonwealth: Direct and Further Appellate Review filings

Supreme Judicial Court – Clerk for Suffolk County: Petitions for Admission to the Bar

Appeals Court: Certain civil and criminal appeals

Trial Court – District Court – Worcester Division : CV Civil Cases involving suit for damages

Trial Court – Boston Municipal Court – Brighton Division: CV Civil cases involving suit for damages

Trial Court – Probate & Family Court – Essex Division: DR Joint Petitions for Divorce

Following is a partial, representative list of the docketing abbreviations for case types that will be available for e-filing as the application is expanded/extended to include other case types, and other divisions and departments. Some of the same docketing abbreviations are used differently in different departments. The Vendor will be required to distinguish between and among them in regard to e-filed documents.

Trial Court:

| | |
|---------|--|
| CASE_CD | DSCR |
| RO | Abuse Prevention Order |
| AP | Appeal |
| CV | Civil |
| DCC | Dog Control Civil Infraction |
| ECI | Environmental Civil Infraction |
| MW | Marriage Waiver |
| MOB | Municipal Ordinance/Bylaw Civil Infraction |
| NS | Non Support |
| SC | Small Claims |
| SU | Summary Process |

| | |
|--------|--|
| SP | Supplementary Process |
| TESTZA | Zoning Appeal |
| AP | Adoption |
| CTV | Contempt Civil |
| EQ | Equity |
| GD | Guardianship |
| WD | Paternity/Support |
| SP | Paternity Support |
| RO | Temporary Restraining Order |
| TS | Temporary Support |
| CN | Change of Name |
| CA | Custody, Support, Visitation (Paternity) |
| CS | DR Support, Custody, and Visitation |
| DR | Domestic Relations |
| EQ | Equity |
| PP | Equity - Partition |
| QC | Equity Complaint |
| QP | Equity Petition |
| EA | Estates and Administration |
| JP | Joint Petition |
| PE | Paternity in Equity |
| PM | Probate Abuse / Conservator Managed |
| PO | Probate Other |
| SC ? | Support, Custody |
| CONDO | Condominium |

| | |
|------|---|
| DA | Deed Approval |
| MISC | Miscellaneous |
| OTCT | Other Court |
| REG | Registration |
| SS | Service members |
| PL | Subdivision Plan Approval |
| TL | Tax Lien |
| V | Housing Court Civil |
| C | Housing Court Small Claims |
| SP | Housing Court Summary Process |
| SU | Housing Court Supplementary Process |
| TR | Housing Court Temporary Restraining Order |

SJC Clerk for the Commonwealth:

SJC-00000 for full court cases (appeals)
 FAR-00000 for further appellate review applications
 DAR-00000 for direct appellate review applications
 OE-000 for original entries (clerk and judge discipline)

SJC Clerk for the Commonwealth:

BA Bar admission by examination
 BP Bar admission by motion
 SP Student Practitioner
 FP Foreign Practitioner
 FL Foreign legal consultant
 SJ Single Justice
 BD Bar Docket
 M Miscellaneous

Appeals Court

CR Criminal

CV Civil

(The Appeals Court also divides its cases into Panel and Single Justice cases, both criminal and civil)

**Exhibit B – Case Filing Statistics
Supreme Judicial Court – Full Bench**

| | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 |
|--|----------------|----------------|----------------|----------------|----------------|
| Direct Entries | 120 | 108 | 155 | 130 | 137 |
| Direct Appellate Review Applications Allowed/Considered | 24/53 | 31/70 | 47/92 | 34/82 | 35/87 |
| Further Appellate Review Applications Allowed/Considered | 34/657 | 38/742 | 42/784 | 32/726 | 46/960 |
| Transferred by SJC on its Motion from Review of Entire Appeals Court Caseload | 48 | 37 | 41 | 35 | 46 |
| Gross Entries | 226 | 214 | 285 | 231 | 264 |
| Dismissals | 26 | 20 | 28 | 42 | 17 |
| Net Entries | 200 | 194 | 257 | 189 | 247 |

Dispositions

| | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 |
|------------------------|----------------|----------------|----------------|----------------|----------------|
| Full Opinions | 145 | 160 | 147 | 164 | 150 |
| Rescripts | 55 | 61 | 54 | 61 | 37 |
| Total Opinions | 200 | 221 | 201 | 225 | 187 |
| Total Appeals Decided* | 208 | 222 | 205 | 231 | 194 |

* Indicates total number of appeals resolved by the Court's opinions.

Exhibit C – Case Filing Statistics
Supreme Judicial Court – Clerk for Suffolk County

| Cases | FY2007 | FY2008 | FY2009 | FY2010 | FY2011 |
|------------------|---------------|---------------|---------------|---------------|---------------|
| Single Justice | 517 | 583 | 649 | 639 | 552 |
| Bar Docket | 115 | 139 | 104 | 130 | 133 |
| Bar Applications | 3114 | 3091 | 3050 | 3061 | 2978 |

**Exhibit D – Case Filing Statistics
Appeals Court**

| Origin of Appeals - Civil | <u>FY2007</u> | <u>FY2008</u> | <u>FY2009</u> | <u>FY2010</u> | <u>FY2011</u> |
|------------------------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| Superior Court | 657 | 621 | 626 | 689 | 705 |
| Probate & Family Court | 157 | 124 | 143 | 157 | 143 |
| BMC/District Court | 43 | 46 | 63 | 54 | 64 |
| Juvenile Court | 74 | 83 | 70 | 71 | 91 |
| Land Court | 62 | 58 | 72 | 72 | 71 |
| Housing Court | 23 | 16 | 22 | 24 | 32 |
| Appellate Tax Board | 15 | 28 | 16 | 19 | 8 |
| Industrial Accident Review Board | 33 | 24 | 81 | 57 | 54 |
| Employment Relations Board | 6 | 7 | 4 | 7 | 0 |
| Appeals Court Single Justice | 36 | 18 | 23 | 23 | 20 |
| Gross Panel Entries (Civil) | 1106 | 1025 | 1170 | 1173 | 1188 |

| Origin of Appeals - Criminal | <u>FY2007</u> | <u>FY2008</u> | <u>FY2009</u> | <u>FY2010</u> | <u>FY2011</u> |
|---------------------------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| Superior Court | 452 | 558 | 606 | 572 | 602 |
| BMC/District Court | 384 | 467 | 509 | 435 | 459 |
| Juvenile Court | 25 | 26 | 24 | 30 | 21 |
| Appeals Court Single Justice | 17 | 7 | 12 | 5 | 8 |
| Gross Panel Entries (Criminal) | 878 | 1058 | 1151 | 1042 | 1090 |

| Dispositions | <u>FY2007</u> | <u>FY2008</u> | <u>FY2009</u> | <u>FY2010</u> | <u>FY2011</u> |
|--|----------------------|----------------------|----------------------|----------------------|----------------------|
| Total Panel Entries | 1984 | 2083 | 2321 | 2215 | 2278 |
| Transferred to Supreme Judicial Court | 80 | 70 | 82 | 76 | 81 |
| Dismissed/settled/withdrawn/consolidated | 504 | 498 | 486 | 487 | 526 |
| Net Annual Entries | 1400 | 1515 | 1753 | 1652 | 1671 |
| Total Panel Decisions (Civil/Criminal)* | 1351(726/625) | 1330(669/661) | 1583(812/771) | 1582(817/765) | 1773(891/882) |
| Published opinions | 278 | 255 | 242 | 251 | 248 |
| Summary dispositions | 1073 | 1075 | 1341 | 1331 | 1525 |
| Decision of lower court affirmed (Civil/Criminal) | 564/527 | 528/543 | 624/636 | 623/524 | 691/653 |
| Decision of lower court reversed (Civil/Criminal) | 113/59 | 83/88 | 125/92 | 118/196 | 109/150 |
| Other result reached (Civil/Criminal) | 49/39 | 58/30 | 63/43 | 76/45 | 84/86 |

*NOTE: *Includes decisions disposing of cases that may have been consolidated*

Exhibit E – Case Filing Statistics

Massachusetts Trial Court

| | FY2005 | FY2006 | FY2007 | FY2008 | FY2009 | FY2010 | FY2011 |
|------------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| All Case Types | 1,184,508 | 1,231,181 | 1,241,958 | 1,314,120 | 1,308,033 | 1,195,691 | 1,132,002 |
| Criminal Matters | | | | | | | |
| Criminal | 256,439 | 266,013 | 276,346 | 279,247 | 264,371 | 242,689 | 235,531 |
| Criminal Show Cause Hearings | 104,811 | 107,412 | 96,488 | 113,851 | 102,704 | 93,561 | 102,625 |
| Criminal Warrants | | | 773 | 2,206 | 5,658 | 5,639 | 5,834 |
| Sub-Total | 361,250 | 373,425 | 373,607 | 395,304 | 372,733 | 341,889 | 343,990 |
| Civil - Regular | 102,053 | 114,807 | 137,670 | 157,746 | 162,743 | 157,449 | 123,447 |
| Civil - Specialized Matters | | | | | | | |
| Small Claims | 123,476 | 129,129 | 122,833 | 123,544 | 137,763 | 101,385 | 94,858 |
| Supplementary Proceedings | 20,830 | 24,403 | 28,212 | 32,816 | 46,279 | 43,318 | 37,777 |
| Summary Process | 31,598 | 32,825 | 35,981 | 40,360 | 38,685 | 37,051 | 39,056 |
| Restraining Orders | 35,656 | 35,396 | 35,246 | 34,960 | 31,628 | 38,365 | 46,931 |
| Harassment Orders | | | | | | | 800 |
| Mental Health | 9,327 | 10,638 | 10,728 | 10,146 | 9,328 | 11,623 | 10,692 |
| CMVI Appeals | 4,242 | 4,716 | 4,697 | 27,191 | 23,676 | 15,466 | 12,208 |
| Administrative Warrants | 4,014 | 4,006 | 5,696 | 4,656 | 6,647 | 9,637 | 10,857 |
| Other Specialized Civil | 1,799 | 1,928 | 2,572 | 2,202 | 2,102 | 1,984 | 1,028 |
| Sub-Total | 230,942 | 243,041 | 245,965 | 275,875 | 296,108 | 258,829 | 254,207 |
| CMVI Hearings | 279,650 | 280,123 | 260,781 | 255,440 | 245,812 | 218,919 | 197,426 |
| Other Hearings | | | | | | | |
| Show Cause Hearings (Applications) | 13,985 | 15,038 | 15,813 | 14,808 | 12,672 | 11,238 | 9,643 |
| Non-MV Infraction Civil Hearings | 2,663 | 3,167 | 3,861 | 11,781 | 16,088 | 18,123 | 17,425 |
| Sub-Total | 16,648 | 18,205 | 19,674 | 26,589 | 28,760 | 29,361 | 27,068 |
| Juvenile Matters | | | | | | | |
| Juvenile Delinquency | 33,302 | 35,502 | 35,046 | 31,622 | 26,147 | 22,640 | 20,194 |
| Youthful Offender | 448 | 433 | 386 | 439 | 334 | 323 | 274 |
| CHINS Applications | 9,251 | 9,354 | 9,293 | 8,873 | 8,088 | 7,905 | 7,266 |
| Care & Protection Petitions | 2,953 | 2,979 | 3,032 | 3,531 | 3,357 | 2,799 | 2,636 |
| Adult complaints | 388 | 492 | 641 | 536 | 472 | 499 | 343 |
| Adoption | 767 | 823 | 787 | 731 | 800 | 737 | 695 |
| Guardianship | 740 | 742 | 766 | 814 | 778 | 639 | 623 |
| Paternity | 238 | | 320 | 310 | 294 | 330 | 301 |
| Harassment | | | | | | | 504 |
| Motor Vehicle Citations | 129 | 103 | 99 | 79 | 34 | 21 | 17 |
| Sub-Total | 47,978 | 50,666 | 50,370 | 46,935 | 40,304 | 35,893 | 32,853 |
| Probate | 52,683 | 51,608 | 50,719 | 50,019 | 48,427 | 48,818 | 47,946 |
| Guardianship - Minor | 4,463 | 4,771 | 4,828 | 4,769 | 4,652 | 3,956 | 4,076 |
| Child Welfare | 2,100 | 1,822 | 1,992 | 1,966 | 1,847 | 1,552 | 1,598 |
| Paternity | 17,494 | 19,510 | 20,147 | 22,025 | 23,850 | 19,589 | 19,863 |
| Divorce | 21,216 | 22,155 | 22,878 | 22,913 | 23,115 | 26,177 | 26,165 |
| Modification/Contempt | 45,003 | 47,813 | 49,762 | 51,116 | 55,886 | 50,708 | 51,052 |
| Other Domestic Relations | 1,930 | 2,064 | 2,291 | 2,282 | 2,430 | 1,003 | 1,280 |
| Appeals | 1,098 | 1,171 | 1,274 | 1,141 | 1,366 | 1,548 | 1,031 |

Exhibit F – Pricing Submission

A. Vendor must provide the following information:

A.1 The name of Vendor company.

A.2 The contact person at the company (including name, phone number and email address) who is authorized to negotiate a best and final proposal on behalf of the company.

A.3 The percentage of revenue Vendor proposes to keep for profit. This percentage will be taken from revenue generated above the cost of initial development and ongoing operations. At the Courts' discretion, the additional revenue above the profit percentage may be used to further reduce the cost to end users of the electronic filing and/or document search/retrieval service.

A.4 Any assumptions made about the project with no regard to e-filing volume.

A.5 Estimated cost to the Vendor for each item in Section 2 (Statement of Work) including, but not limited to:

A.5.1 Hosting Services

A.5.2 Implementation cost

A.5.3 Estimated ongoing cost for each item in Section 2 (Statement of Work) including, but not limited to:

A.5.3.1 Ongoing software support/maintenance

A.5.3.2 Ongoing customer support/training

A.6 Indicate pricing in the tables below, reflecting different assumptions or “parameters”. Please also define the Unit used in the pricing submission (e.g., page, document, case, etc.). **If Vendor proposes another pricing model that is not covered by this form, please provide the model and explain it in detail.**

| Parameters: Vendor EFSP – Filing Fees for Pilot Programs | | | |
|---|-------------|------------------------|-----------------------------|
| Item Description | Unit | Amount per Unit | Comments/Assumptions |
| Attorney/Self-Represented Litigant Portal | | | |
| Electronic Service Module | | | |
| Other | | | |

Roll out and full e-filing capability statewide

| Parameters: Vendor EFSP – 25% e-filing Participation | | | |
|---|--------------------|-------------------------------|------------------------------------|
| <u>Item Description</u> | <u>Unit</u> | <u>Amount per Unit</u> | <u>Comments/Assumptions</u> |
| Attorney/Self-Represented Litigant Portal | | | |
| Electronic Service Module | | | |
| Other | | | |

| Parameters: Vendor EFSP – 50% e-filing Participation | | | |
|---|--------------------|-------------------------------|------------------------------------|
| <u>Item Description</u> | <u>Unit</u> | <u>Amount per Unit</u> | <u>Comments/Assumptions</u> |
| Attorney/Self-Represented Litigant Portal | | | |
| Electronic Service Module | | | |
| Other | | | |

| Parameters: Vendor EFSP – 75% e-filing Participation | | | |
|---|--------------------|-------------------------------|------------------------------------|
| <u>Item Description</u> | <u>Unit</u> | <u>Amount per Unit</u> | <u>Comments/Assumptions</u> |
| Attorney/Self-Represented Litigant Portal | | | |
| Electronic Service Module | | | |
| Other | | | |

| Parameters: Vendor EFSP – 100% e-filing Participation | | | |
|--|--------------------|-------------------------------|------------------------------------|
| <u>Item Description</u> | <u>Unit</u> | <u>Amount per Unit</u> | <u>Comments/Assumptions</u> |
| Attorney/Self-Represented Litigant Portal | | | |
| Electronic Service Module | | | |
| Other | | | |

Exhibit G – Execution of Proposal

NOTE: THIS EXHIBIT MUST BE SIGNED AND RETURNED WITH THE PROPOSAL. PROPOSALS THAT DO NOT INCLUDE THIS EXHIBIT WILL BE DISQUALIFIED. THE PROPOSAL SHALL BE VOID IF FALSE STATEMENTS ARE CONTAINED IN THIS EXHIBIT.

Vendor certifies that:

All statements and information prepared and submitted in the response to this RFP are current, complete, and accurate.

Vendor has not given, proposed to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant, or to current contractors who do work for the Courts, in connection with the submitted response.

Neither Vendor nor the firm, corporation, partnership, or institution represented by Vendor or anyone acting for such firm, corporation, or institution has (1) violated the antitrust laws of the Commonwealth of Massachusetts or the federal antitrust laws; or (2) communicated the contents of this Proposal either directly or indirectly to any competitor or any other person engaged in the same line of business during the procurement process for this RFP.

No person who prepared the specifications or this RFP has any financial interest in Vendor's Proposal. If Vendor is not eligible, then any contract resulting from this RFP shall be immediately terminated. Furthermore, the Vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that no contract shall be formed or, if any such contract is held to have been formed, it shall be void *ab initio* if this certification is inaccurate.

The names and social security numbers of any person or entity holding at least a twenty-five percent (25%) ownership interest in the business entity submitting the Proposal are as follows:

| | |
|--------------|--------------------------------|
| Name: | Social Security Number: |
| Name: | Social Security Number: |
| Name: | Social Security Number: |

Vendor certifies that no principal of Vendor was an employee of the Courts or of the Commonwealth within the past year, or that no employee of Vendor who was an employee of the Courts within the past year will perform services if Vendor is awarded this contract.

Vendor represents that no person who, in the past four years, served in the Courts or any other

Commonwealth agency, was involved with or has any interest in this Proposal or any contract resulting from this Proposal. If Vendor employs or has used the services of a former employee the Courts or other Commonwealth agency, then Vendor shall provide the following information: Name of former employee, date of separation from the Courts or any Commonwealth agency, position with Vendor, and date of employment with Vendor.

Vendor certifies that the responding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, Commonwealth or other governmental entity, and that Vendor is in compliance with all Commonwealth of Massachusetts statutes and rules relating to procurement, and that Vendor is not listed on the Federal government's terrorism watch list as described in the President's Executive Order (EO) 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, effective 9/24/2001 and any subsequent amendments to it. Entities ineligible for federal procurement are listed at <http://www.epls.gov>.

Vendor represents and warrants that the individual signing this Execution of Proposal is authorized to sign this document on behalf of Vendor and to bind Vendor under any contract resulting from this Proposal.

VENDOR (COMPANY):

SIGNATURE (INK):

NAME PRINTED:

TITLE:

DATE:

STREET:

CITY/STATE/ZIP:

TELEPHONE AND FACSIMILE NUMBERS:

Exhibit H – Vendor Questionnaire

NOTE: THIS FORM MUST BE COMPLETED AND RETURNED WITH THE REQUEST FOR PROPOSAL (RFP). RFP'S THAT DO NOT INCLUDE THIS FORM WILL BE DISQUALIFIED. (Note: This information may be submitted in a form provided by the vendor, but the content must be presented with all information in the same order as shown in this questionnaire.)

THE RFP SHALL BE VOID IF FALSE STATEMENTS ARE CONTAINED IN THIS EXHIBIT.

A. Vendor's Contact Person. Vendor must list the name, title, email address, mailing address, phone number and fax number of the individual who will be the contract person for the term of any Purchase Order resulting from this RFP.

NAME:

TITLE:

MAILING ADDRESS:

TELEPHONE

FAX:

EMAIL:

B. References. Vendor must provide a list of up to four (4) governmental agencies, corporations, or other entities for which Vendor has provided the services requested in the RFP during the past three (3) years. Vendor must include dates when requested services were provided, the names, telephone numbers and e-mail addresses of the governmental agencies or other agencies' contact. If none, indicate so.

GOVERNMENT AGENCY OR OTHER ENTITY:

DESCRIPTION OF SERVICES PROVIDED:

DATE SERVICES PROVIDED:

NAME OF CONTACT:

TELEPHONE NUMBER OF CONTACT:

EMAIL ADDRESS OF CONTACT:

2. GOVERNMENT AGENCY OR OTHER ENTITY:

 DESCRIPTION OF SERVICES PROVIDED:

 DATE SERVICES PROVIDED:

 NAME OF CONTACT:

 TELEPHONE NUMBER OF CONTACT:

 EMAIL ADDRESS OF CONTACT:

3. COMMONWEALTH AGENCY OR OTHER ENTITY:

 DESCRIPTION OF SERVICES PROVIDED:

 DATE SERVICES PROVIDED:

 NAME OF CONTACT:

 TELEPHONE NUMBER OF CONTACT:

 EMAIL ADDRESS OF CONTACT:

4. COMMONWEALTH AGENCY OR OTHER ENTITY:

 DESCRIPTION OF SERVICES PROVIDED:

 DATE SERVICES PROVIDED:

 NAME OF CONTACT:

 TELEPHONE NUMBER OF CONTACT:

 EMAIL ADDRESS OF CONTACT:

- C. Cancellations or Terminations.** Vendor must list all contracts or purchase orders that Vendor executed or accepted within the last three (3) years that were canceled or terminated prior to completion by any governmental agency or other entity with which Vendor contracted. For each such contract or purchase order, Vendor must include a detailed explanation for the cancellation or termination and final resolution, if any, of the matter. Include the names and telephone numbers of the contact persons for each such government agency or firm.

 GOVERNMENT AGENCY OR OTHER ENTITY:

 EXPLANATION FOR CANCELLATION OR TERMINATION:

 FINAL RESOLUTION:

 TELEPHONE NUMBER OF CONTACT:

D. Profile. Vendor must include the following profile that:
 List any other information Vendor believes is pertinent to this RFP:

| | |
|-----|---|
| (a) | Describes the general nature of previous similar work performed by Vendor, particularly work in the last three (3) years: |
| (b) | Describes the size and scope of all operations, including number of Vendor's employees and years in business: |
| (c) | Describes Vendor's prior contracting experience with Governmental agencies and similar entities: |
| (d) | List any other information Vendor believes is pertinent to this RFP: |

E. Personnel. Vendor must provide in detail the qualifications, education, training, experience and certifications of all Vendor's employees who will or may provide the services or items, such as computer hardware, under any Purchase Order resulting from this RFP. Vendor must provide this information for each such employee.

| | | |
|----|------------------------------|--|
| 1. | Staff Person's Name: | |
| | Qualifications: | |
| | Education: | |
| | Training: | |
| | Experience: | |
| | Certifications and Licenses: | |

| | | |
|----|------------------------------|--|
| 2. | Staff Person's Name: | |
| | Qualifications: | |
| | Education: | |
| | Training: | |
| | Experience: | |
| | Certifications and Licenses: | |

| | | |
|----|------------------------------|--|
| 3. | Staff Person's Name: | |
| | Qualifications: | |
| | Education: | |
| | Training: | |
| | Experience: | |
| | Certifications and Licenses: | |

| | | |
|----|------------------------------|--|
| 4. | Staff Person's Name: | |
| | Qualifications: | |
| | Education: | |
| | Training: | |
| | Experience: | |
| | Certifications and Licenses: | |

| | | |
|----|------------------------------|--|
| 5. | Staff Person's Name: | |
| | Qualifications: | |
| | Education: | |
| | Training: | |
| | Experience: | |
| | Certifications and Licenses: | |

Exhibit I

DRAFT ELECTRONIC FILING RULES FOR PILOT COURTS IN PROBATE AND FAMILY, DISTRICT, BOSTON MUNICIPAL COURTS; AND THE APPEALS AND SUPREME JUDICIAL COURTS

ELECTRONIC FILING AND SERVICE

General Information

1. By order dated -----, the Supreme Judicial Court (SJC) authorized certain departments of the Trial Court, the Appeals Court, and the SJC (Pilot Courts) to conduct electronic filing pilot projects (Pilot Projects). Pursuant to that order, Pilot Courts may designate certain filings to be accepted electronically through the Electronic Case Filing System (ECF).
2. Effective [date], Users who submit documents electronically through the ECF shall comply with these administrative procedures and any applicable standing orders of the individual Pilot Courts. To the extent that any Massachusetts Rules and Orders of Court shall be inconsistent, these Electronic Filing Rules for Pilot Courts (E-Filing Rules) shall govern.
3. The official court record in a Pilot Project case shall be the Electronic Case File (ECF) pertaining to that case, together with any paper documents, attachments, and exhibits filed in accordance with these E-Filing Rules. After [date], the Clerk's office of each Pilot Court will work exclusively from the ECF in any Pilot Project case, except as otherwise provided herein or as ordered by the judge in a particular case. Until further notice, the Clerks of the Pilot Courts shall retain all disks or paper documents submitted that have been scanned and uploaded for filing through the ECF.
4. All documents submitted for filing through the ECF must comply with technical standards, if any, established by the Supreme Judicial Court and the Trial Court.
5. Before using the ECF, the User should become familiar with these E-Filing Rules and all ECF training and documentation materials provided for use of the ECF.

A. Definitions

"Access Code" shall mean a secure, confidential identifier and password that is assigned to and provides ECF access to an individual who has properly registered in accordance with procedures set forth in Section B., below.

"Clerk" shall include, where the context so requires, Registers of Probate, as well as any respective assistants or deputies.

"Document" means a written pleading, form, notice, motion, affidavit, paper exhibit, brief, judgment, execution, order, mittimus, or other writing submitted for filing in the Electronic Case File (ECF) or issued by a court and submitted through the ECF for entry on the docket, whether originally created on paper or using an electronic word processing program. For purposes of these rules, "document" includes any transmittal page accompanying the submission. Except as otherwise provided, all documents must be submitted in portable document format (PDF).

"Conventional method" refers to court procedures that would ordinarily apply in any given set of the circumstances. Parties or counsel who are ordered or opt to proceed "conventionally," as provided in these E-Filing Rules, must look to the appropriate Massachusetts Rules and Orders of Court for guidance.

"ECF" stands for Electronic Case File, or where the context requires, Electronic Case Filing System.

"Electronic Filing" or "e-filing" means the submission and electronic transmission of documents to the Pilot Court through the ECF for purposes of filing in a particular Pilot Project case.

"Electronic Filing (e-filing) Provider" means the vendor providing e-filing and electronic service (e-service) of documents via the Internet. The term shall include the Trial Court Information Service (TCIS) department if TCIS is the e-filing and e-service provider.

"ECF Notification" means an ECF-generated notice confirming or acknowledging the completion of an ECF transaction. Typically, an e-filer will receive one ECF Notification upon the ECF System's receipt of an e-filing, and will receive a second ECF Notification upon the Clerk's acceptance and docketing of the e-filing. The ECF Notification is transmitted by e-mail to all Registered Users of record in a particular Pilot Project case. Non-Registered Participants shall receive paper copies of all ECF Notifications generated in the case. An ECF Notification shall serve as notice of the entry of a document upon the docket maintained by the Clerk, including an order issued by the court in a particular Pilot Project case.

"Electronic Service" (e-service) means the submission and electronic transmission of documents through the ECF according to these E-Filing Rules and the Massachusetts Rules and Orders of Court that govern service and notice. E-service does not include service of process or summons to gain jurisdiction over persons or property, except as provided in Section D.3., below.

"Electronic signature" or "electronically signed" refers to a signature on a document submitted for e-filing by a Registered User, or entered by the Clerk on the docket through the ECF, that complies with the requirements set forth in Section K., below.

"Massachusetts Rules and Orders of Court" shall mean the Rules of Civil, Criminal and Appellate Procedure, the Rules of the Supreme Judicial Court, Appeals Court and Trial Court, the Rules of the various Trial Court Departments, the rules governing Time Standards and Case Management, together with all Standing Orders.

"Non-Registered Participant" refers to a party to a Pilot Project case who either has not registered or has opted not to proceed electronically in the case.

"PDF" (portable document format) includes two types of PDF documents: electronically converted PDFs and scanned PDFs.

Electronically converted PDFs are created from word processing documents (MS Word, WordPerfect, etc.) using Adobe Acrobat or similar software. They are text searchable and their file size is small.

Scanned PDFs are created from paper documents run through an optical scanner. Scanned PDFs are generally not searchable and have a larger file size. Electronically converted PDFs are preferable for filing documents with the court through the ECF.

"Public Access Terminal" means a publicly accessible computer provided by the court for the purposes of allowing e-filing and viewing of public electronic court records. The public access terminal shall be located in the Clerk's office at the courthouse and will be available during normal business hours. The Clerk's office may also offer printed copies of the electronic court records and apply relevant copying fees as permitted by relevant Massachusetts Rules and Orders of Court.

"Registered User" or "User" are interchangeable and refer to a voluntary participant in a Pilot Project case who has properly registered in accordance with Section B., below, and obtained a confidential access code to use the ECF.

"Transaction" means an event or an action taken with respect to a document that is submitted to the Pilot Court for e-filing or e-service. Each time a transaction occurs, the ECF shall generate and transmit by e-mail an ECF Notification to all Users of record in the case confirming and acknowledging the transaction. The ECF is designed to maintain a record of each transaction.

"Transmittal page" shall mean a page automatically generated by the ECF for which a User must provide certain information necessary to proceed with the e-filing of a document in a particular Pilot Project case.

B. Registration and Certification

1. Participation in the Pilot Project shall be voluntary. Registration for the Pilot Project shall be limited to the following:
 - a. Attorneys who are members of the Massachusetts Bar.
 - b. To the extent permitted by a particular Pilot Court, parties to any Pilot Project case who are not represented by an attorney and who are properly registered and certified under this Section.
2. Registration is accomplished by filling in the on-line ECF registration or by completing an ECF Registration Form, a copy of which is on the pilot court's web page. If not submitted on-line, completed ECF Registration Forms should be mailed or hand delivered to: [Clerk of Pilot Court]. The registration form must be accompanied by certification of the registrant that he/she has access on a continuing basis to the following hardware and software:

A personal computer.

Internet Browser Software such as Microsoft Internet Explorer® version 7 (or higher), or Firefox® version 3 (or higher). The ECF system uses 128-bit encryption to provide the highest level of Internet Security available. The browser must support 128-bit encryption and Secure Sockets Layer (SSL) version 2.0 protocol. The browser must be JavaScript-enabled.

Adobe Reader ® 8.0 or higher, or equivalent software to view PDF documents. PDF reader software is free and downloadable from various web-sites.

The capability to convert documents from a word processor format to PDF. There are several PDF writer/conversion programs available, some depending on the browser used.

Access to a scanner to create images of non-computerized documents such as exhibits.

An e-mail account readily accessible by the registrant. The size of the e-mail account must be sufficient to receive large filed documents. While this may exceed the size allocated for free e-mail accounts, in general, an account with available storage space of at least 100 megabytes is sufficient. Any spam filter operation on the network and computer receiving the e-mail must be set to allow notices from the court.

The browser must be set to accept all cookies. The instructions for enabling cookies will vary, depending on the browser you are using.

3. Registered Users of the ECF shall be individuals and not law firms, agencies, corporations, or other groups. A User need register only once for all cases in any of the Pilot Courts. Unless the User indicates to the Clerk in any particular case that he/she wishes to proceed in the conventional method, the User acknowledges that:
 - a. By registering, Users agree to electronically file all documents, except those requiring paper filing under Section G.6., below, and to the extent the ECF can accept them. In any particular Pilot Project case, upon motion and court approval, a Registered User may submit a document for filing in paper form without opting out as a Registered User under Section B.10, below.
 - b. Registration also constitutes consent to service by electronic means of all documents (filed in the ECF) as provided in these E-Filing Rules and in the Massachusetts Rules and Orders of Court.
 - c. Registration by an attorney as a participant in a Pilot Project case shall not constitute an appearance. The attorney must also submit for e-filing and service his/her appearance on all Users of record in the case and, where applicable, send a copy by regular mail to all Non-Registered Participants of record. As in the current paper system, any party in a case with no appearance of an attorney filed on his/her behalf, is presumed to be a self-represented litigant.
4. Upon completion of a properly executed ECF registration form, a confidential, secure access code shall be assigned to the User. The access code shall be used only by the Registered User to whom it is assigned and by any employee or other person that the User authorizes. Use of a User's access code by the User's employee or other authorized person shall be deemed to be the act of the Registered User. If the confidentiality of the access code has been inadvertently or improperly disclosed, the User shall, upon learning of such disclosure, immediately report it to the court through the ECF.
5. The same access code shall be used for all cases in which the User is an attorney or party. The User's access code shall expire 36 months after the last case in which the User is involved has been disposed and become inactive. A User's access code may be reset as needed for administrative and security purposes.
6. Users must furnish an e-mail address that will be used by the ECF to confirm or notify Users of all transactions as well as any actions taken by the Clerk or the court on the particular Pilot Project case in which the User participates. If more than one e-mail address is provided for this purpose, all ECF Notifications will be sent to each one. It is the User's responsibility to ensure that the court has the correct e-mail address(es).
7. Users shall notify the court through the ECF within 7 days of any change in the information provided for registration.

8. To the extent a particular Pilot Project so provides, any person who is a party to a civil action, and who is not represented by an attorney, may register as a User in the ECF. The party must register as provided above. If, during the course of the action, an attorney appears on the User's behalf, the User's registration shall be deactivated in that case upon the filing of that attorney's appearance, unless the User and the attorney are participating in the Limited Assistance Representation (LAR) program. The attorney so appearing, whether or not participating in the LAR program, may then elect to participate in the ECF Pilot Project, upon registration as set forth above, or proceed in the conventional method, at the attorney's option. If an attorney participating in the LAR program elects to proceed in the conventional method, the User receiving such representation shall be reactivated in the pilot case and continue to receive all material in electronic form, but shall not be permitted to e-file documents so long as the LAR continues.
9. An attorney or self-represented party may submit a request to the Clerk of a Pilot Court to begin electronic filing of documents in a case that was either commenced prior to the beginning of e-filing in that court or was commenced by conventional methods after the pilot began. The decision to allow electronic filing of documents after the case has been commenced is in the sole discretion of the Clerk. If the request is granted, the requester shall register in accordance with Section B. of these E-Filing Rules and shall send a notice to the other parties by regular mail stating that the newly Registered User will be submitting documents for e-filing and shall provide with such notice ECF user materials prepared by the E-filing Provider.
10. Users who wish to stop using the ECF in a particular case must so notify, through the ECF, the Clerk of the Pilot Court in which the case is pending. This action will then trigger an ECF Notification to all Registered Users of record in the case that conventional methods must be used for this party for future filings and service.
11. Any individual who is not an attorney in or a party to a case, and who has obtained permission of the court (e.g., a witness seeking a protective order, interveners, amicus curiae, or court investigators), may file in the conventional method according to the appropriate Massachusetts Rules and Orders of Court, or may register as a User in accordance with this Section and file electronically.

C. Electronic Filing

1. Whenever a User submits a document to the court through the ECF, an ECF Notification will automatically generate and transmit to the User, and all Registered Users of record in the case, acknowledging the submission. A copy of all e-filed documents will be sent by the ECF system to registered users in the case (except those who have opted out of e-filing in the case). The User shall send by regular mail a copy of the ECF Notification to all Non-Registered participants in the case. The User submitting the document for e-filing shall retain, until two years after the expiration of the time for filing a timely appeal or after the final conclusion of the case if an appeal is taken, a paper or digital copy of the ECF Notification, which shall serve as the court's date-stamp and proof of the court's receipt of the document.

2. As with conventional filing, prior to entry upon the docket, each document submitted through the ECF shall be reviewed by the Clerk for compliance with the Massachusetts Rules and Orders of Court governing the filing of documents generally. If accepted, the document shall be considered "filed" with the court at the time the original submission to the ECF was complete, as stated on the ECF Notification transmitted pursuant to Section C.1., above. If rejected, the document shall neither enter on the docket nor become part of the court record, and the ECF Notification confirming the rejection shall set forth the reasons the document was rejected. A docket entry shall note the rejection and the reason(s) therefore.
3. A document submitted through the ECF is considered "filed" for all purposes of the Massachusetts Rules and Orders of Court only if it has been accepted for filing by the Clerk. That acceptance will be signified by an ECF Notification confirming that the document has been entered on the docket maintained by the Clerk pursuant to those Rules and Orders.
4. The date the document is considered "filed" shall be determined by the regular designated business hours of the court. Any document submitted to the ECF before the close of regular business hours shall be considered filed on that date, so long as it is subsequently entered upon the docket after the Clerk's review. A document submitted after the close of regular business hours shall be considered filed the next business day.
5. The ECF shall receive electronic filings 24 hours per day except when undergoing maintenance or repair.
6. All pleadings filed electronically shall be titled in the same way they are titled when filing conventionally.
7. Except by specific order of a judge in each instance, e-mailing or faxing a document to the court does NOT constitute "filing" of the document. A document shall not be considered "filed" until an ECF Notification is generated and transmitted confirming entry upon the docket maintained by the Clerk.

D. Filing and Service of Civil Case Initiating Documents

1. Civil case initiating documents, such as a complaint or petition, may be submitted for filing through the ECF. The ECF will not transmit to the court any such submission, however, unless it is accompanied by the required filing fee or an application for a fee waiver. Absent either the proper payment or a request for a waiver, the submission shall be rejected outright and an ECF Notification shall automatically generate to inform the User of the rejected submission.
2. Upon acceptance of a case initiating document for filing, a case number will be assigned and the document will be processed as provided in Section C., above. If the case initiating document is rejected, the User will be informed as provided in Section C.3., above.
3. Unless otherwise determined by the Pilot Court, or unless the responding party has

consented in writing to accept electronic service or service by some other method, case initiating documents shall be served by conventional methods. Case initiating documents shall be served together with a notice, developed by the Office of Court Management for Pilot Courts in the Trial Court, and by the SJC and Appeals Court, respectively, for their pilots, to the responding party stating that the case has been electronically filed and providing certain ECF user materials prepared by the E-filing Provider.

4. A responding party, or an attorney for a responding party, may register to use the ECF as provided in Section B. After registering to use the ECF, the responding party or attorney may also participate as a User in the particular case. Such registration by an attorney in the case shall not constitute an appearance. The attorney must also submit for e-filing and service his/her appearance on all Users of record in the case and, where applicable, send a copy by regular mail to all Non-Registered Participants of record. As in the current paper system, any party in a case with no appearance of an attorney filed on his/her behalf, is presumed to be a self-represented litigant.

E. Service of Electronically Filed Documents

1. Unless excused by the Massachusetts Rules and Orders of Court, or as otherwise ordered by the court, all electronically filed documents must be served on other parties. Any such document served by electronic means must bear a certificate of service, in accordance with the Massachusetts Rules and Orders of Court stating that the document has been filed electronically and that it will be served in accordance with these E-filing rules. All Registered Users of record in a case will be served automatically and electronically by the Electronic Case Filing System. The attorney or party submitting the document for filing through the ECF is responsible for serving a paper copy of the document by regular mail in accordance with applicable court rule to all parties identified on the ECF Notification as Non-Registered Participants.

Example:

Certificate of Service

I hereby certify that I have filed this document(s) through the Electronic Case Filing System ("ECF"). I will send paper copies to those indicated as non-registered participants on _(date)_.

2. If an ECF Notification transmitted to a User's e-mail account is rejected or returned as undeliverable, a docket entry shall note the rejection and an ECF Notification shall generate automatically to all other Registered Users of record in the case notifying them of the rejection. The filing User shall then serve the document on that User by conventional methods. The User whose e-mail account rejected the notice shall be treated by the court and by all parties to the case as a Non-Registered Participant until an ECF Notification generates indicating that the problem is corrected.

3. By registering in the ECF, parties or attorneys consent to service by electronic means of all documents (filed in the ECF) as provided in these E-Filing Rules and in the Massachusetts Rules and Orders of Court.
4. If a Registered User prefers service in any particular case by conventional methods, he/she must notify the Clerk and all other parties and attorneys in the case.
5. The ECF shall not be used for the electronic exchange of discovery materials and other communications between the parties that are not intended to be filed with the court.
6. Electronic service shall be deemed complete at the time of transmission of the ECF Notification triggered by the submission of a document through the ECF. For the purpose of computing time to respond to documents received by electronic service, any document served on a day or at a time when the court is not open for business shall be deemed served at the time of the next opening of the court for business. Whenever a party has the right or is required to do some act within a prescribed period after the completion of electronic service of a notice or other documents upon him/her and the notice or document is served upon him/her by electronic means, 3 days shall be added to the prescribed period.

F. Payment of Fees

1. As set forth in Section D., above, a complaint or other case initiating document shall not be considered filed until the filing fee is paid, or until a request for waiver of the fee has been submitted through the ECF.
2. The ECF will provide for one or more methods for electronic payment, including credit cards, debit cards, electronic funds transfers, or debit accounts. Users shall make any payment due to the Clerk of court through the ECF unless otherwise ordered by the court.
3. Users may submit a request for waiver of either court filing fees or fees charged by the electronic filing provider, or both, using a form provided by the ECF for this purpose. There shall be no initial charge for filing the form requesting waiver; should the requested waiver be denied, the appropriate electronic filing provider fee for this filing shall be assessed.
4. The court may charge a fee for the use of the ECF. The E-filing Provider may also charge a fee for its services. The amount of any such fee or fees shall be subject to the approval of the Chief Justice of the Trial Court and the Court Administrator, in the case of the Trial Court, or of the Chief Justices of the Supreme Judicial Court and of the Appeals Court with respect to their courts.

G. Format and Content of Documents

1. Unless other formats are permitted by these E-Filing Rules (see, e.g., Section P., below), all documents submitted in the ECF must be in PDF format. Additionally,

Users shall format all electronically filed documents in accordance with the Massachusetts Rules and Orders of Court governing formatting of paper documents, including page limits and font style and size, unless a deviation has been allowed by court order.

2. Users may be required to provide certain information in order to submit documents for e-filing. A document shall be rejected for further processing for failure to include information in any one of the mandatory fields identified by the ECF.
3. The ECF may have limits on the length of documents or number of attachments that may be submitted for e-filing. The ECF is designed to automatically reject submissions that go beyond those set limits. In that event, the User shall then file and serve such documents in the conventional method and in accordance with the procedures set forth in Section M.6., below. Leave of court may be granted for conventional filing and service of documents in appropriate cases.
4. Users shall maintain an original paper document of each document filed electronically until two years after the expiration of the time for filing a timely appeal or after the final conclusion of the case if an appeal is taken.
5. Each document submitted for e-filing may contain electronic links, but only to navigate within the same document.
6. The following documents shall be filed by conventional methods in paper form only:
 - a. Impounded documents. The term “impounded” includes information contained in papers, documents or exhibits that is withheld from public inspection and cannot be published, disseminated, or otherwise disclosed. It includes information so classified by statute, court rule, or court order and includes information sealed, privileged or otherwise not available for public inspection. See Section H., below.
 - b. *Ex parte* motions and applications, where allowed by court rule.
 - c. Original pretrial hearing and trial exhibits.
 - d. Medical records.
7. The following types of original documents need not be filed electronically. However, they may be scanned and submitted by a Registered User through the ECF, or the Clerk’s office may scan them into the system:
 - a. All handwritten pleadings;
 - b. All pleadings and documents filed by self-represented litigants who are incarcerated or who are not Registered Users;
 - c. Executed service of process documents; and

- d. Attachments to filings.

H. Impounded Information

1. Impounded Documents/Cases. At this time, except for documents required by statute or rule to be submitted as impounded documents (e.g., financial statements in accordance with Probate and Family Court Supplemental Rule 401(d)), the court will not permit the electronic filing of impounded documents. Other than the above excepted documents, impounded documents should be filed in accordance with the procedures set forth in Section M.6., below, clearly labeled as impounded, with the appropriate accompanying notice of impoundment or motion to impound pursuant to the Uniform Rules of Impoundment Procedure, and any other applicable Massachusetts Rules and Orders of Court.
 - a. Motions to Impound. A User may submit for e-filing a motion to file a document as an impounded document. If the motion is granted, the assigned judge will issue an order authorizing the filing of the document as an impounded document. Upon receipt of the ECF Notification confirming the order, the User shall then submit the impounded document to the Clerk's office for conventional filing in accordance with Section M.6., below. A paper copy of the judicial order must be attached to documents so filed and delivered to the Clerk.
 - b. If a document is impounded, it shall be identified as impounded by the User at the time it is submitted for e-filing, at which time the User may be required to enter certain information on the transmittal page, such as social security numbers, in confidential fields.
2. *Ex Parte* Motions. These motions must be filed as hard copies.
3. Confidentiality. The confidentiality of an electronic record or an electronic or paper copy thereof is equivalent to that of a paper record. Where an impounded document is scanned or otherwise placed in the ECF, access may be permitted only to the extent provided by law. No person in possession of an impounded document, whether in electronic or paper form, may release the information to any other person except as provided by law, or by court order.
 - a. Where the impounded document is scanned or otherwise placed in the ECF, a visible mark will appear on it automatically and identifying it as impounded.

I. Submitting Redacted Documents

The parties may request, or the court may require, the submission of redacted documents which have sensitive or confidential information removed from them. When submitting a copy of an original paper document for e-filing, the original unredacted document should be filed in paper only when ordered by the court. In its place, the User shall attach a PDF file that includes the caption of the document and the notation "Redacted Document" and the original document as redacted should be filed in paper form. The filer shall retain the original for future production, if necessary, until two years after the final conclusion of the case, including any appeal.

J. Privacy

Unless otherwise ordered by the court, all Registered Users shall comply with the Supreme Judicial Court's Interim Guidelines for the Protection of Personal Identifying Data in Publicly Accessible Court Documents:

See <http://www.mass.gov/courts/sjc/docs/interim-pid-guidelines.pdf>.

It shall not be the responsibility of the Clerk's office to review each document to determine if pleadings have been modified and are in the proper form.

K. Signature

1. Attorneys. The attorney's User access code required to submit documents to the ECF shall serve as the attorney's signature for purposes of Mass.R.Civ.P. 11 and for all other purposes under the Massachusetts Rules and Orders of Court. All documents submitted for e-filing must include a signature block and must set forth the attorney's name, Board of Bar Overseers number, address, telephone number and e-mail address. The name of the ECF User under whose access code the document is submitted must be preceded by an "/s/" and typed in the space where the signature would otherwise appear. For example:

/s/ John A. Smith
John A. Smith BBO#123456
123 Main Street
Boston, MA 02210
617-987-6543_
jasmith@internetprovider.com

2. Persons not represented by an attorney. All documents submitted for e-filing must include a signature block and must set forth the individual's name, address, telephone number and e-mail address. On the signature line above the signature block on the document to be electronically filed, "/s/" must be typed in the space where the signature would otherwise appear. For example:

/s/ John B. Doe
John B. Doe
123 Main Street
Boston, MA 02210
617 123-4567
johnbdoe@isp.com

3. Multiple Signatures. A User who submits a document for e-filing that requires more than one signature (e.g., stipulations, joint motions, joint status reports, etc.) must list thereon all the names of other signatories by means of a signature block for each signatory. For example:

/s/ John B. Doe
John B. Doe
123 Main Street
Boston, MA 02210
617 123-4567
johnbdoe@isp.com

/s/ Jane M. Doe
Jane M. Doe
123 Main Street
Boston, MA 02210
617 123-4567
janebdoe@isp.com

/s/ Attorney John A. Smith
John A. Smith BBO#123456
123 Main Street
Boston, MA 02210
617-987-6543
jasmith@internetprovider.com

In submitting such a document, the User must certify that each of the other signatories has expressly agreed to the form and substance of the document and that the User has

their actual authority in writing to submit the document electronically. The User shall retain the record evidencing this concurrence for future production, if necessary, until two years after the expiration of the time for filing a timely appeal or after the final conclusion of the case if an appeal is taken. A non-filing signatory or party who disputes the authenticity of an electronically filed document containing multiple signatures must file an objection to the document within 14 days of the date on the ECF Notification, or of receiving actual knowledge of the filing, if the non-filing signatory or party is not a recipient of the ECF Notification.

4. Affidavits. An affidavit may be submitted for e-filing; however it must contain an "/s/ name of signatory" block. By e-filing the affidavit the filer certifies that the original paper copy bears an original signature at the time of filing. The filer shall retain the original for future production, if necessary, until two years after the expiration of the time for filing a timely appeal or after the final conclusion of the case if an appeal is taken.
5. Signature of Notaries. Notarized documents containing a handwritten signature and physical seal may be submitted for e-filing. The User shall submit a scanned copy of the notarized document through the ECF, and the court shall maintain the scanned document as the official court record. The court may require the User to produce the original paper document if validity of the notarization is challenged. The filer shall retain the original for future production, if necessary, until two years after the expiration of the time for filing a timely appeal or after the final conclusion of the case if an appeal is taken.
6. Summons and Complaint. A summons and complaint, petition, or other case initiating document that is signed in compliance with this Section bears a sufficient signature under any applicable Massachusetts Rules and Orders of Court.
7. Use. An access code shall be used only by the User to whom it is assigned or his or her assignee. Upon learning that the confidentiality of the access code has been inadvertently or improperly disclosed, the User shall immediately report such disclosure to the court through the ECF.
 - a. Attorneys are responsible for electronically filed documents to the same extent as for paper filings. Attorneys using the ECF are subject to sanctions and/or contempt proceedings as may be provided by statute or rule, and are subject to discipline for any violation of a duty to the court imposed by statute or rule.
 - b. Self-represented parties are responsible for electronically filed documents to the same extent as for paper filings. Self-represented parties using the ECF are subject to sanctions and/or contempt procedures as may be provided by statute or rule.

L. Attachments to Filings and Exhibits (other than hearing and trial exhibits)

1. Attachments to filings and exhibits must be submitted in accordance with the ECF user materials prepared by the E-Filing Provider, unless otherwise ordered by the court.
2. A User must submit as attachments only those excerpts of the referenced documents that are directly germane to the matter under consideration by the court. Excerpted material must be clearly and prominently identified as such. Users who file excerpts of documents do so without prejudice to their right to timely file additional excerpts or the complete document, as may be allowed by the court. Responding parties may timely file additional excerpts or the complete document that they believe are directly germane.
3. Filers shall not attach as an exhibit any pleading or other paper already on file with the court in that case, but shall merely refer to that document.

M. File Size Limitations and Conventional Filing of Documents

1. Documents submitted for e-filing are subject to paper page limitations set by order of the particular Pilot Court.
2. A User must limit the size of the PDF file to no more than 2 megabytes. Documents significantly larger than 2 megabytes will be rejected outright by the ECF. Users should take into consideration that scanned images take up considerably more space on the system than PDF files containing electronically generated documents converted to PDF. However, larger documents or exhibits may be submitted for e-filing if they are broken up into separate 2 megabyte segments and attached to the main document.
3. Because documents scanned in color or containing a graphic take much longer to upload, Users must configure their scanners to scan documents at 200 dpi and in black and white rather than in color. Documents appearing in color in their original form, such as color photographs, may be scanned in color and then uploaded to the system.
4. A User must verify the readability of scanned documents before submitting them to the court for e-filing.
5. Documents or exhibits submitted in the conventional method shall be served on other parties as if not subject to these E-Filing Rules.
6. When a Registered User files paper documents or exhibits with the Clerk's office pursuant to this Section, the User shall submit for e-filing through the ECF a "Notice

of Filing with Clerk's Office." A paper copy of the "Notice of Filing with the Clerk's Office" must accompany the paper documents. The "Notice of Filing with Clerk's Office" shall describe each of the documents that will be retained as paper copies in the Clerk's office files, or include an index of the documents if they are voluminous.

N. Orders and Judgments

1. Except where otherwise required, the assigned judge or Clerk may electronically sign all orders submitted through the ECF for entry upon the docket maintained by the Clerk. Any order signed electronically has the same force and effect as if the judge had affixed his/her signature to a paper copy of the order and it had been entered on the docket in the conventional method. The assigned judge or Clerk may sign a paper copy of the order, which shall then be scanned into the ECF and docketed.
2. The Clerk's office shall send, by regular mail, paper copies of all orders entered on the docket through the ECF to all Non-Registered Participants of record in the case and shall include in the mailing a copy of the applicable ECF Notification to serve as proof of the filing.
3. A Clerk, if appropriate, may enter routine orders, issued by a judge or Clerk as the case may be, by a text-only entry upon the docket entitled "Electronic Order." In such cases, the text-only entry shall constitute the court's only order on the matter and all Users and Non-Registered Participants of record in the case will receive notification through a system generated ECF Notification, or a mailed copy thereof, if applicable.

O. Motions for Leave to File

A User may submit a motion seeking leave of court to e-file a certain document or to amend a document previously filed in a Pilot Project case by submitting along with the motion a copy of the document that the party proposes to e-file marked, "Proposed [document designation]." If leave to file the document is granted, the User shall re-submit the document or amended document through the ECF, indicating in the caption of the document that leave has been granted.

P. Submitting Proposed Order

A User may submit proposed orders through the ECF. All proposed orders shall be submitted in Word, WordPerfect, OpenOffice or LibreOffice format, and they must be either attached as an exhibit to a motion or stipulation or contained within the body of a stipulation.

Q. Transcripts

1. Trial Court Proceedings. A transcript of a proceeding of a participating Trial Court shall be submitted by the court reporter or transcriber to the clerk's office of the Trial Court where the case is pending. Each volume of the certified original transcript shall be submitted in a portable document format (PDF). If feasible, the court reporter or transcriber shall submit the PDF using the ECF. Alternatively, the court reporter or transcriber shall submit the PDF stored on a compact disc (CD) to the clerk's office. The clerk's office shall store the PDF in an electronic document management system. A notice of assembly of the record on appeals shall include the PDF of each transcript relevant to the appeal.

R. Correcting Docket Entries

1. Once a document is submitted for e-filing and is entered on the docket, corrections to the docket are made only by the Clerk's office. The ECF will not permit Users to make changes to a docket entry or to documents e-filed in error.
2. If a User makes an error during the process of submitting a document for e-filing, **the User should not attempt to re-file the document unless instructed to do so by Clerk's office staff.**
3. Errors could occur, for example, in posting the wrong PDF file to a docket entry, selecting the wrong document type from the menu, or entering the wrong case number and not catching the error before the transaction is completed. Upon the discovery of these and other similar errors, a User should contact the Clerk's office as soon as possible to request a correction, giving the case number and document number for which the correction is being requested. If appropriate, the Clerk's office will make an entry indicating that the document was filed in error. The User will be advised if the document needs to be re-submitted for filing.

S. Technical Failures

1. A User whose filing is made untimely as a result of a technical failure of the court's ECF may seek appropriate relief from the court. Known system outages will be posted on the court's web site, if possible.
2. Problems on the User's end, e.g., phone line problems, problems with the filer's Internet Service Provider (ISP), or hardware or software problems, among others, will not constitute a technical failure under these E-Filing Rules nor excuse an untimely filing. A User who cannot file a document electronically because of a problem on the User's end must file the document conventionally in PDF format submitted on a compact disk. Alternatively, the User may contact the Clerk's office for permission to submit the PDF document via e-mail. Users are strongly urged to submit for e-filing through the ECF any documents due on a given day during normal business

hours of the Pilot Court.

T. Self-Represented Litigants

Self-represented litigants in civil actions may register with the ECF or may file (and serve) all pleadings and other documents on paper. The Clerk's office will scan into the ECF any pleadings and documents filed on paper in a Pilot Project case.

U. Access to Electronically Stored Documents

All documents that are not impounded, including those submitted through the ECF, may be viewed at the Clerk's office through the court's public access terminals and, when available, over the Internet. Access to data or documents other than those available on public access terminals or through public access Internet sites will require ECF authentication of a Registered User appearing in the particular case. In other words, although docket entries in a Pilot Project case may be viewed by the public, certain documents related to those entries may not be available except to Registered Users appearing in the case.

V. Retention

Unless otherwise ordered by the court, documents that were filed conventionally in paper and subsequently uploaded to the ECF may be destroyed and need not be maintained by the Clerk's office in their paper form. Any document requiring an original signature shall be maintained by the attorney until two years after the expiration of the time for filing a timely appeal or after the final conclusion of the case if an appeal is taken.