

Solicitation 060-582998-SY2

Postini Perimeter Manager Enterprise Edition Software License(s) and Related Svs



County of Orange

Bid 060-582998-SY2 Postini Perimeter Manager Enterprise Edition Software License(s) and Related Svs

Bid Number	060-582998-SY2
Bid Title	Postini Perimeter Manager Enterprise Edition Software License(s) and Related Svs
Bid Start Date	Dec 14, 2010 5:32:17 PM PST
Bid End Date	Jan 5, 2011 4:00:00 PM PST
Question & Answer End Date	Dec 21, 2010 4:00:00 PM PST
Bid Contact	Victor D Cumberland
Standard Disclaimer	The County of Orange is not responsible for and accepts no liability for any technical difficulties or failures that result from conducting business electronically.

Description

The County of Orange / Sheriff – Coroner's Department is requesting competitive bids for Postini Perimeter Manager Enterprise Edition Software License(s) and Related Services, as more fully detailed in Attachment A –Scope of Work / Pricing, of the bid document # 060-582998-SY2.

Any modification to the bid document will result in immediate disqualification.

Completed bid documents must be sent or dropped off to:

County of Orange
Sheriff – Coroner / Purchasing Division
320 N. Flower Street, 2ND Floor
Santa Ana, CA 92703

***** (Telephone/Fax/Email bid requests will not be honored) *****

INVITATION FOR BID
BID MUST BE RECEIVED
PRIOR TO 4:00 P.M.(Pacific
Time)



DATE: January 5, 2011

FOR OFFICE
USE ONLY

BID NUMBER
060-582998-SY2

COUNTY OF ORANGE
Sheriff-Coroner Department
Purchasing Services Bureau
320 N. Flower St., 2nd Floor
Santa Ana, CA 92703
(714) 568-5791

COVER PAGE

Date: December 14, 2010

Date/Time Stamp

INVITATION FOR BID

Description of Solicitation:

The County of Orange ("County") is requesting competitive bids for **Postini Perimeter Manager Enterprise Edition Software License(s) and Related Services**, as more fully detailed in Attachment A – Scope of Work / Pricing.

This IFB is set forth in the following format:

- Cover Page
- Section 1 – General Information
 - Company Profile
 - References
- Section 2 – Model Contract Terms & Conditions
 - Attachment A – Scope of Work / Pricing
 - Attachment B – Compensation and Pricing Provisions
 - Exhibits 1 & 2

Submitted bids will be valid for 120 days after closing date.

BID CLOSES AT 4:00 P.M. (Pacific Time) on Wednesday, January 5, 2011.

Public Bid Opening scheduled at **10:00 A.M. (PST)** on **Thursday, January 6, 2011** and will be held at County of Orange - Sheriff/Purchasing Division, 320 N. Flower St., 2nd Floor-Purchasing Conference Room, Santa Ana, CA 92703.

<input type="checkbox"/> I have read and understand and agree to the terms and conditions herewith and I am submitting a response and concurrence to this solicitation.		
OR		
<input type="checkbox"/> I prefer not to submit a bid in response to this solicitation per the reason(s) given below.		
Company Name: _____		
Date: _____		
*Authorized Signature	Name	Title
*Authorized Signature	Name	Title
Reason(s) _____		

* If a corporation, this document must be signed by two corporate officers. The first signature must be either the Chairman of the Board, President, or any Vice President. The second signature must be the Secretary, an Assistant Secretary, the Chief Financial Officer, or any Assistant Treasurer.

RETURN THIS SHEET WITH YOUR RESPONSE

SECTION 1 - GENERAL INFORMATION

I. IMPORTANT NOTICES:

Bids may be returned via mail or hand delivered only to County's Sheriff-Coroner Department, Purchasing Services Bureau, 320 N. Flower Street, 2nd Floor, Santa Ana, CA 92703 by the closing date and time indicated on this solicitation. Facsimile and electronic mail bids will not be accepted.

NO LATE BIDS WILL BE ACCEPTED REGARDLESS OF THE REASON

All changes or modifications to this solicitation will be issued through Bidsync.

Any questions or requests for interpretations or clarifications shall be requested in writing through Bidsync on or before 12/21/10. If clarification or interpretation of the IFB is considered necessary, a written addendum shall be issued. Oral statement(s) concerning the meaning of the contents of this IFB by any person is unauthorized and invalid. All inquiries concerning this IFB should be directed through the BidSync System.

County does not guarantee that you will receive addenda (additional information, changes or modifications) to this solicitation by mail prior to the close of this solicitation or at all. It is the bidder's responsibility to ensure that they have received all addenda prior to the submission of its bid.

Sheriff-Coroner Department/Purchasing Services Bureau regular business hours are 8:00 a.m. to 5:00 p.m.(Pacific Time), Monday through Friday.

County does not require and neither encourages nor discourages the use of lobbyists or other consultants for the purpose of securing business.

II. INSTRUCTIONS – GENERAL

1. If you choose not to submit a bid or "No Bid", please complete the appropriate section on the cover sheet of the IFB. Please ensure that you have signed the sheet, entered the date, name of your company and the name and title of the person authorized to sign on behalf of the company. Returning a "NO BID" response by the bid due date and time will keep your firm in the system. If you choose to "NO BID" this IFB, please complete the appropriate section on the cover sheet of the IFB, indicating the reason(s) why you have chosen not to bid. A failure to respond to this solicitation may eliminate your firm from the County Purchasing system.
2. **Responsive bids will include the following completed pages: Cover Sheet, Company Profile, References, Attachment A.** The cover sheet of a responsive bid must be signed appropriately and completed with the date and company name. If the bidder is a corporation then it must contain signatures, name and title of two corporate officers authorized to sign on behalf of the Company. The first signature must be either: 1) the chairman of the board; 2) president; or 3) any vice president. The second signature must be either: 1) the secretary; 2) an assistant secretary; 3) the chief financial officer; or 4) any assistant treasurer.
3. Bids must be provided for each item separately; "all or none" bids will not be accepted unless in the best interest of County.
4. Out of state Contractors must include California sales tax permit number.
5. **Mailed bids** must be received by Sheriff-Coroner Department/Purchasing Services Bureau by 4:00 p.m.(Pacific Time) on the date bids are due. All envelopes containing mailed bids must be marked with the Bid number **060-582998-SY2**, date and time of the bid closing for that solicitation. It is the bidder's responsibility to verify that the closing date on the bid envelope matches the closing date of the bid. Only one bid submittal will be accepted per envelope. It is the bidder's responsibility to ensure that delivery is made to the Sheriff-Coroner Department/Purchasing Services Bureau at the address below by the due date and time specified herein and to the following address:

County of Orange
Sheriff-Coroner Department/Purchasing Services Bureau

**Attn: Purchasing
320 N. Flower Street, 2nd Floor
Santa Ana, CA 92703
Bid # 060-582998-SY2**

6. **Hand-Delivery** - Bid responses may be hand-delivered to Sheriff-Coroner Department/Purchasing Services Bureau, located on the 2nd Floor. **DO NOT LEAVE BIDS WITH ANY OTHER OFFICE LOCATED IN THE BUILDING.** All bids, regardless of manner of delivery are due no later than 4:00 P.M.(Pacific Time).
7. **Telefaxed bids** will not be allowed. **Electronic mail bids** will not be allowed.
8. Contractor shall submit one (1) original and one (1) copy of this bid document.
9. Contractors shall take all responsibility for any errors or omissions in their bids. Any discrepancies in numbers or calculations shall be interpreted to reflect the lowest price to County.
10. County shall not be liable for any expenses incurred by potential Contractors in the preparation or submission of their bids. Pre-contractual expenses are not to be included in your bid. Pre-contractual expenses are defined as including but not limited to, expenses incurred by the bidder in: a) preparing its bid in response to this IFB; b) postage/shipping c) negotiating with County any matter related to the bid; d) any other expenses incurred by the bidder prior to the date of award and execution, if any.

III. INSTRUCTIONS - PROTEST PROCEDURES

Protest of Bid/Proposal Specifications:

All protests related to bid or proposal specifications must be submitted to the Deputy Purchasing Agent no later than five (5) business days prior to the close of the bid or proposal. Protests received after the five (5) business day deadline will not be considered by County.

In the event the protest of specifications is denied and the protester wishes to continue in the solicitation process, they must still submit a bid prior to the close of the solicitation in accordance with the bid/proposal submittal procedures provided in the bid/proposal.

Protest of Award of Contract:

In protests related to the award of a contract, the protest must be submitted no later than five (5) business days after the notice of the proposed contract award is provided by the Deputy Purchasing Agent. Protests relating to a proposed contract award which are received after the five (5) business day deadline will not be considered by County.

Procedure

All protests shall be type-written on the protester's letterhead and be submitted in accordance with the provisions stated herein. All protests shall include at minimum the following information:

The name, address and telephone number of the protester;

The signature of the protester or the protester's representative;

The solicitation or contract number;

A detailed statement of the legal and/or factual grounds for the protest; and

The form of relief requested.

Protest Process

In the event of a timely protest, County shall not proceed with the solicitation or award of the contract until the Deputy Purchasing Agent, County Purchasing Agent or the Procurement Appeals Board renders a decision on the protest.

Upon receipt of a timely protest, the Deputy Purchasing Agent will within ten (10) business days of the receipt of the protest, issue a decision in writing which shall state the reasons for the actions taken.

County may, after providing written justification to be included in the procurement file, make the determination that the award of the contract, without delay, is necessary to protect the substantial interests of County. The award of a contract shall in no way compromise the protester's right to the protest procedures outlined herein.

If the protester disagrees with the decision of the Deputy Purchasing Agent, the protester may submit a written notice to the Office of the County Purchasing Agent requesting an appeal to the Procurement Appeals Board, in accordance with the process stated below.

Appeal Process

If the protester wishes to appeal the decision of the Deputy Purchasing Agent, the protester must submit, within three (3) business days from receipt of letter, a written appeal to the Office of the County Purchasing Agent.

Within fifteen (15) business days, the County Purchasing Agent will review all materials in connection with the grievance, assess the merits of the protest and provide a written determination with a decision as to whether the protest shall be forwarded to the Procurement Appeals Board as described in Section 1.4 of County's Contract Policy Manual.

The decision of the County Purchasing Agent will be final and there shall be no right to further administrative appeals.

IV. RIGHTS RESERVED TO COUNTY

1. County, at its sole discretion, reserves the right to accept or reject in whole or in part any or all bids received as a result of this solicitation.
2. County may cancel this Invitation for Bids in whole or in part without prior notice. Thereafter, County may issue a solicitation for new bids.
3. County makes no guarantee as to the usage of the services by County. County furthermore makes no representation that any contract will be awarded to any bidder responding to this Invitation For Bid.
4. All bids received will be public record after opening. Proposals/bids are not to be marked as confidential or proprietary. Proposals/bids submitted in response to this IFB are subject to public disclosure. County shall not be liable for disclosure of any information or records related to this procurement. Additionally, all proposals/bids shall become the property of County. County reserves the right to make use of any information or ideas in the proposals/bids submitted.
5. When more than one line item is specified in a solicitation, County reserves the right to determine the lowest responsible bidder on the basis of individual items, groups of items, or all items included in the solicitation, unless otherwise expressly provided for in the solicitation. County may accept any item or group of items included in the bid unless the bidder expressly objects in its response to the solicitation and conditions its response on County purchasing all items for which the bidder provided bids. In the event that the bidder so objects, County may consider the bidder's objection non-responsive and may

render the bidder ineligible for award.

6. County reserves the right to award its total requirements to one bidder or to apportion those requirements among two or more bidders as County may deem to be in the best interests of County. In addition, negotiations may or may not be conducted with bidder; therefore, the proposal/bid submitted should contain the bidder's most favorable terms and conditions, since the selection and award may be made without discussion with any bidder.
7. County reserves the right to waive, at its discretion, any irregularity or informality which County deems correctable or otherwise not warranting rejection of the bid.
8. The lowest responsive and responsible bid may be subject to further negotiations in the sole discretion of County; bidders should not assume, however, that there will be opportunity for further negotiation so bidders must present their best and final bid in response to this solicitation.
9. By participating in this solicitation, bidders agree to accept the decision of the County Purchasing Agent as final.

V. SPECIAL REQUIREMENTS

1. Bidders may be required to present satisfactory evidence that they have been regularly engaged in the business of providing goods/services required by this solicitation or are reasonably familiar therewith and that they are fully prepared with the necessary capital, material, and machinery as may be required or specified in this solicitation to complete the work to be contracted to the satisfaction of County.
2. By submitting a bid, the bidder represents that it has thoroughly examined and become familiar with the goods/services required under this Invitation For Bid and that it is capable of providing the goods/services to achieve County's objectives.
3. Bidders may be required to provide information regarding and/or proof of the number of years they have provided the goods/services requested in this solicitation.
4. Each bidder must submit its bid in strict accordance with all requirements of this Invitation For Bid.

VI. EXCEPTIONS

Any exceptions to County's terms and conditions must be clearly stated in responses to this solicitation under a separate section entitled "Exceptions." Any exception must include the details of the exception and the reasons for it. County reserves the right to disqualify vendors taking exception to its terms and conditions. Vendors taking exception after notice of award will be disqualified from award of contract.

VII. AWARD

Final award determination will be based primarily on the overall lowest responsive, responsible bid, but is contingent upon Sheriff-Coroner Department/Purchasing Services Bureau approval, which will include a review of bidders' qualifications and references.

(Return with Bid Response)

COMPANY PROFILE

Company Name: _____

Business Address: _____

Address for mailed Payment: _____

Telephone Number: (____) _____ Facsimile Number: (____) _____

Email Address: _____

Length of time the firm has been in business: _____

Length of time at current location: _____

Is your firm the sole proprietor doing business under a different name: _____ Yes _____ No

If yes, please indicate sole proprietor's name and the business name: _____

Indicate your firm's federal tax ID number: _____

Is your firm incorporated: _____ Yes _____ No State of Incorporation: _____

Type and number of business license(s): _____

System Certification: _____

Regular business hours: _____

Regular holidays and hours when business is closed: _____

Contact's name in reference to this bid: _____

Telephone Number: (____) _____ Facsimile Number: (____) _____

Email Address: _____

Name of project manager: _____

Telephone Number: (____) _____ Facsimile Number: (____) _____

Email Address: _____

Contact's name to place order: _____

Telephone Number: (____) _____ Facsimile Number: (____) _____

Email Address: _____

Name administrator to whom questions regarding accounts payable should be directed: _____

Telephone Number: (____) _____ Facsimile Number: (____) _____

Email Address: _____

In the event of an emergency or declared disaster, the following information is required:

Name of Contact individual during non-business hours: _____

Telephone Number: (____) _____ Facsimile Number: (____) _____

Email Address: _____ Pager Number: _____

(Return with Bid Response)

REFERENCES

All contractors must provide a minimum of three references. At least two of the references are clients in California, and at least one of the references must cover services performed in the past year. Services should be similar to those services required in this solicitation. References must include the name and address of the company or governmental agency and the name and telephone and facsimile numbers of contact person(s), annual agreement dollar amount of the contract and a brief description of the agreement/contract work and services provided. Attach additional sheets if necessary.

1. Name of Reference: _____
 Address: _____
 Contact Name: _____ Telephone Number: _____
 Annual agreement dollar amount: _____ Facsimile Number: _____
 Brief Description of agreement/Contract work or services provided: _____

2. Name of Reference: _____
 Address: _____
 Contact Name: _____ Telephone Number: _____
 Annual agreement dollar amount: _____ Facsimile Number: _____
 Brief Description of agreement/Contract work or services provided: _____

3. Name of Reference: _____
 Address: _____
 Contact Name: _____ Telephone Number: _____
 Annual agreement dollar amount: _____ Facsimile Number: _____
 Brief Description of agreement/Contract work or services provided: _____

SECTION 2

**Model Contract (#TBD) For
Postini Perimeter Manager Enterprise Edition Software License(s) and Related Services**

This agreement, hereinafter referred to as "Contract" is made and entered into as of the date fully executed by and between, _____ with a place of business at _____; hereinafter referred to as "Contractor," and the County of Orange, a political subdivision of the State of California, operating through its Sheriff-Coroner Department with a place of business at 320 N. Flower Street, 2nd Floor, Santa Ana, CA 92703, hereinafter referred to as "County," which may be referred individually as "Party" or collectively as "Parties."

RECITALS

WHEREAS, Contractor responded to County issued solicitation offering the complete Scope of Work / Pricing as requested in Attachment A, and Contractor represents that its proposed goods and services shall meet or exceed County's requirements and specifications as set forth herein; and,

WHEREAS, County's Board of Supervisors has authorized the Purchasing Agent or his designee to enter into a Contract for **Postini Perimeter Manager Enterprise Edition Software License(s) and Related Services**.

NOW, THEREFORE, the Parties mutually agree as follows:

General Terms and Conditions:

1. **Documentation**. The term "Documentation" shall mean, for the purposes of this Contract, all written and electronic manuals, training materials or other associated materials and updated versions thereof (printed and electronic formats), which are necessary or useful to the County in its use of the Software hereunder.
 2. **Software**. The term "Software" shall mean, for purposes of this Contract, licensed computer applications listed in Attachment A (Scope of Work / Pricing) and their associated tables, and interfaces. The term "Software" includes any corrections to software malfunctions, updates, upgrades, or other modifications, including custom modifications to such computer Software.
 3. **Update**. The term "Update" shall mean, for the purposes of this Contract, any corrections to software malfunctions (bugs) and third level revisions (e.g., 1.2.3 to 1.2.4) to the Software.
 4. **Upgrade**. The term "Upgrade" shall mean, for the purposes of this Contract, first and second level revisions (e.g., 1.0 to 2.0 and 1.2 to 1.3 respectively) to the Software.
- A. **Governing Law and Venue:** This Contract has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for trial to another county.
- B. **Entire Contract:** This Contract, including Attachments A, B, Exhibit 1 (Blank Child Support Enforcement Certification Requirements Form), and Exhibit 2 (Blank EDD Reporting Requirement Compliance Form), which have been incorporated, when accepted by the Contractor either in writing or by the shipment of any article or other commencement of performance hereunder, contains the entire contract between the Parties with respect to the matters herein and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental contracts by any County employee or agent, including but not limited to installers of equipment, shall not be valid or binding on County unless accepted in writing by County's Purchasing Agent or his designee, hereinafter "Purchasing Agent".

- C. **Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the Parties; no oral understanding or agreement not incorporated herein shall be binding on either of the Parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.
- D. **Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax.
- E. **Delivery:** Time of delivery of goods or services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or description, or services that do not conform to the prescribed statement of work. Acceptance of any part of the order for goods shall not bind County to accept future shipments, nor deprive it of the right to return goods already accepted, at Contractor's expense. Over shipments and under shipments of goods shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until all goods, or services, have actually been received and accepted in writing by County.
- F. **Acceptance/Payment:** Unless otherwise agreed to in writing by County, 1) acceptance shall not be deemed complete unless in writing and until all the goods/services have actually been received, inspected, and tested to the satisfaction of County, and 2) payment shall be made annually in advance after satisfactory acceptance by the County and in accordance to Attachment B, Compensation and Pricing. In the event the Contract is terminated for any reason, County shall immediately receive one – twelfth (1/12) of all prepaid Postini Mailboxes (as listed in this Contract) for each month or portion thereof remaining for the Contract term as listed in Attachment A of this Contract.
- G. **Warranty:** Contractor expressly warrants that the goods/services covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an agreement upon Contractor's part to indemnify, defend and hold County and its indemnitees as identified in paragraph "P" below, harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the goods/services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.
- H. **Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any Software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in paragraph "P" below, it shall indemnify, defend and hold County and County Indemnitees harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, but not limited to, attorney's fees, costs and expenses.
- I. **Assignment or Sub-contracting:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the Parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned or sub-contracted by Contractor without the express written consent of County. Any attempt by Contractor to assign or sub-contract the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.
- J. **Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to all the penalties imposed for a violation of anti-discrimination law or regulation, including but not limited to, Section 1720 et seq. of the California Labor Code.

- K. **Termination:** In addition to any other remedies or rights it may have by law, County has the right to terminate this Contract without penalty immediately with cause or after thirty (30) days' written notice without cause, unless otherwise specified. Cause shall be defined as any breach of Contract, any misrepresentation or fraud on the part of the Contractor. Exercise by County of its right to terminate the Contract shall relieve County of all further obligation.
- L. **Consent to Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. Any consent by any Party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
- M. **Remedies Not Exclusive:** The remedies for breach set forth in this Contract are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Contract does not preclude resort by either Party to any other remedies provided by law.
- N. **Independent Contractor:** Contractor shall be considered an independent Contractor and neither Contractor, its employees nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor, its employees nor anyone working under Contractor, shall qualify for workers' compensation or other fringe benefits of any kind through County.
- O. **Performance:** Contractor shall perform all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion, and coordination of all documentation and other goods/services furnished by Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workman-like manner; shall furnish all labor, supervision, machinery, equipment, materials, and supplies necessary therefore; shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work; and, if permitted to subcontract, shall be fully responsible for all work performed by subcontractors.
- P. **Indemnification:** Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnitees"), harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Contractor and County agree that liability will be apportioned as determined by the court. Neither Party shall request a jury apportionment.

INSURANCE PROVISIONS

Prior to the provision of services under this contract, the contractor agrees to purchase all required insurance at contractor's expense and to deposit with the County Certificates of Insurance, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this contract have been complied with and to keep such insurance coverage and the certificates therefore on deposit with the County during the entire term of this contract. In addition, all subcontractors performing work on behalf of contractor pursuant to this contract shall obtain insurance subject to the same terms and conditions as set forth herein for contractor.

All self-insured retentions (SIRs) and deductibles shall be clearly stated on the Certificate of Insurance. If no SIRs or deductibles apply, indicate this on the Certificate of Insurance with a 0 by the appropriate line of coverage. Any self-insured retention (SIR) or deductible in an amount in excess of \$25,000 (\$5,000 for automobile liability), shall specifically be approved by the County Executive Office (CEO)/Office of Risk Management.

If the contractor fails to maintain insurance acceptable to the County for the full term of this contract, the

County may terminate this contract.

Qualified Insurer

Minimum insurance company ratings as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com** shall be A- (Secure A.M. Best's Rating) and VIII (Financial Size Category).

The policy or policies of insurance must be issued by an insurer licensed to do business in the state of California (California Admitted Carrier). If the carrier is a non-admitted carrier in the state of California and does not meet or exceed an A.M. Best rating of A-/VIII, CEO/Office of Risk Management retains the right to approve or reject carrier after a review of the company's performance and financial ratings. If the non-admitted carrier meets or exceeds the minimum A.M. Best rating of A-/VIII, the agency can accept the insurance.

The policy or policies of insurance maintained by the Contractor shall provide the minimum limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence

Required Coverage Forms

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of insurance:

- 1) An Additional Insured endorsement using ISO form CG 2010 or CG 2033 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, employees, agents as Additional Insureds.
- 2) A primary non-contributing endorsement evidencing that the contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

All insurance policies required by this contract shall waive all rights of subrogation against the County of Orange and members of the Board of Supervisors, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, and members of the Board of Supervisors, its elected and appointed officials, officers, agents and employees.

All insurance policies required by this contract shall give the County of Orange 30 days notice in the event of cancellation and 10 days for non-payment of premium. This shall be evidenced by policy provisions or an endorsement separate from the Certificate of Insurance.

The Commercial General Liability policy shall contain a severability of interests clause also known as a "separation of insureds" clause (standard in the ISO CG 0001 policy).

Insurance certificates should be forwarded to the agency/department address listed on the solicitation.

If the contractor fails to provide the insurance certificates and endorsements within seven days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

County expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable certificates of insurance and endorsements with County incorporating such changes within thirty days of receipt of such notice, this Contract may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

- Q. **Bills and Liens:** Contractor shall pay promptly all indebtedness for labor, materials, and equipment used in performance of the work. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Contractor shall promptly procure its release and, in accordance with the requirements of paragraph "P" above, indemnify, defend, and hold County harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.
- R. **Changes:** Contractor shall make no changes in the work or perform any additional work without County's specific written approval.
- S. **Change of Ownership:** Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, the new owners shall be required under terms of sale or other transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of County.
- T. **Force Majeure:** Contractor shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to County within thirty-six (36) hours of the start of the delay and Contractor avails himself of any available remedies.
- U. **Confidentiality:** Contractor agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or

exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.

- V. **Compliance with Laws:** Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph "P" above, Contractor agrees that it shall defend, indemnify and hold County and County Indemnitees harmless from all liability, damages, costs, and expenses arising from or related to a violation of such laws.
- W. **Freight (F.O.B. Destination):** Contractor assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.
- X. **Pricing:** The Contract price shall include full compensation for providing all required goods in accordance with required specifications, or services as specified herein or when applicable, in the Scope of Work attached to this Contract, and no additional compensation will be allowed therefore, unless otherwise provided for in this Contract.
- Y. **Waiver of Jury Trial:** Each Party acknowledges that it is aware of and has had the opportunity to seek advise of counsel of its choice with respect to its rights to trial by jury, and each Party, for itself and its successors, creditors, and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by any Party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on or with regard to any matters whatsoever arising out of or in any way connected with this Contract and /or any other claim of injury or damage.
- Z. **Terms and Conditions:** Contractor acknowledges that it has read and agrees to all terms and conditions included in this Contract.
- AA. **Headings:** The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.
- BB. **Severability:** If any term, covenant, condition, or provision of this Contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
- CC. **Calendar Days:** Any reference to the word "day" or "days" herein shall mean calendar day or calendar days, respectively, unless otherwise expressly provided.
- DD. **Attorney Fees:** In any action or proceeding to enforce or interpret any provisions of this Contract, or where any provisions hereof is validly asserted as a defense, each Party shall bear its own attorney's fees, costs and expenses.
- EE. **Interpretation:** This Contract has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each Party has been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each Party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other Party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the Party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to affect the purpose of the Parties and this Contract.
- FF. **Authority:** The Parties to this Contract represent and warrant that this Contract has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.

- GG. **Employee Eligibility Verification:** Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against Contractor or County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

Additional Terms and Conditions

1. **Scope of Contract:** This Contract specifies the contractual terms and conditions by which County will procure and receive goods/services from Contractor as set forth in the Scope of Work / Pricing, which is attached hereto as Attachment A and incorporated by this reference.
2. **Term of Contract:** This Contract shall commence May 1, 2011 and on upon execution of all necessary signatures and shall be effective for one (1) year from that date, unless otherwise terminated by County. This Contract may be renewed for four (4) separate additional one (1) year term by mutual agreement of both Parties. The County does not have to give reason if it elects not to renew.
3. **Precedence:** The Contract documents will consist of this Contract including its Attachments, and Exhibits. In the event of a conflict between the Contract documents, the order of precedence shall be this Contract, then the Attachments and Exhibits.
4. **Fiscal Appropriations:** This Contract is subject to and contingent upon applicable budgetary appropriations being made by the County's Board of Supervisors for each year during the term of this Contract. If such appropriations are not forthcoming, the Contract will be terminated without penalty. Contractor acknowledges that funding or portions of funding for this Contract may also be contingent upon the receipt of funds from, and/or appropriation of funds by, the state of California to County. If such funding and/or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.
5. **Conflict of Interest (Contractor):** Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that result in a conflict with the best interest of County. This obligation shall apply to Contractor, Contractor's employees, agents, relatives, sub tier contractors and third parties associated with accomplishing the work hereunder.

Contractor's efforts shall include, but not be limited to, establishing precautions to prevent its employees or agents from making, receiving, providing, or offering gifts, entertainment, payments, loans, or other considerations which could be deemed to appear to influence individuals to act contrary to the best interest of County.

6. **Contractor Work Hours and Safety Standards:** Contractor shall ensure compliance with all safety and hourly requirements for employees, in accordance with federal, state, and County safety and health regulations and laws.
7. **County and Contractor Project Manager:** County shall appoint a project manager to act as liaison between County and Contractor during the term of this Contract. County's project manager shall coordinate the activities of County staff assigned to work with Contractor.

Contractor shall appoint a project manager to direct Contractor's efforts in fulfilling Contractor's obligations under this Contract. Contractor's project manager shall be subject to approval by County and shall not be changed without the written consent of County's project manager. County's project manager shall have the right to require the removal and replacement of Contractor's project manager from providing services to County under this Contract. County's project manager shall notify Contractor in writing of such action. Contractor shall accomplish the removal within fourteen (14) calendar days after written notice by County's

project manager. County is not required to provide any reason, rationale or factual information in the event it elects to request the removal of Contractor’s project manager from providing services to County under this Contract.

- 8. **Contractor Personnel:** In addition to the rights set forth in paragraph 7, County’s project manager shall have the right to require the removal and replacement of any of Contractor’s personnel from providing services to County under this Contract. County’s project manager shall notify Contractor’s project manager in writing of such action. Contractor shall accomplish the removal of the specified personnel within one (1) calendar day after written notice by County’s project manager. County is not required to provide any reason, rationale or factual information in the event it elects to request the removal of any of Contractor’s personnel from providing services to County under this Contract.
- 9. **Orderly Termination:** Upon termination or other expiration of this Contract, each Party shall promptly return to the other Party all papers, materials, and other properties of the other held by each for purposes of execution of the Contract. In addition, each Party will assist the other Party in orderly termination of this Contract and the transfer of all aspects, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each Party.
- 10. **Reprocurement Costs:** In the case of default by Contractor, County may procure the service from other sources and, if the cost is higher, Contractor will be held responsible to pay County the difference between the Contract cost and the price paid. County may make reasonable efforts to obtain the prevailing market price at the time such goods and services are rendered. This is in addition to any other remedies available under law.
- 11. **County of Orange Child Support Enforcement (Exhibit 1 – Blank County of Orange Child Support Enforcement Certification Requirements Form):** In order to comply with the child support enforcement requirements of County, within ten (10) days of notification of selection of award of Contract but prior to official award of Contract, the selected Contractor agrees to furnish the required Contractor data and certifications to the agency/department deputy purchasing agent.

Failure of Contractor to timely submit the data and/or certifications required may result in the Contract being awarded to another contractor. In the event a Contract has been issued, failure of the Contractor to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within sixty (60) calendar days of notice from County shall constitute grounds for termination of the Contract.

- 12. **Authorization Warranty:** Contractor represents and warrants that the person executing this Contract on behalf of and for Contractor is an authorized agent who has actual authority to bind Contractor to each and every term, condition, and obligation of this Contract and that all requirements of Contractor have been fulfilled to provide such actual authority.
- 13. **Notices:** Any and all notices permitted or required to be given hereunder shall be deemed duly given (1) upon actual delivery, if delivery is by hand; or (2) upon delivery by the United States mail if delivery is by postage paid registered or certified return receipt requested mail. Each such notice shall be sent to the respective Party at the address indicated below or to any other address as the respective Parties may designate from time to time.

For Contractor:

Name: _____
 Address: _____
 City, State, Zip Code _____
 Attn: _____
 Title: _____
 Phone: _____

For County:

County of Orange

Sheriff-Coroner Department/Purchasing Services Bureau
 320 N. Flower Street, 2nd Floor
 Santa Ana, CA 92703
 Attn: Purchasing
 Ph: 714-834-4700
 Fx: 714-834-6411

14. **Incorporation:** This Contract, its Attachments A, B, Exhibit 1 (Blank Child Support Enforcement Certification Requirements Form), and Exhibit 2 (Blank EDD Reporting Requirement Compliance Form), are attached hereto and incorporated by reference and made a part of this Contract.
15. **Data – Title to:** All materials, documents, data or information obtained from County data files or any County medium furnished to Contractor in the performance of this Contract will at all times remain the property of County. Such data or information may not be used or copied for direct or indirect use by Contractor after completion or termination of this Contract without the express written consent of County. All materials, documents, data or information, including copies, must be returned to County at the end of this Contract.
16. **Usage:** No guarantee is given by County to Contractor regarding usage of this Contract. Usage figures, if provided, are approximate, based upon the last usage. Contractor agrees to supply services and/or commodities requested, as needed by County, at prices listed in the Contract, regardless of quantity requested.
17. **Contractor's Records:** Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by Contractor in accordance with generally accepted accounting principles. These records shall be stored in Orange County for a period of three (3) years after final payment is received from County. Storage of records in another county will require written approval from County's assigned Deputy Purchasing Agent.
18. **Audits/Inspections:** Contractor agrees to permit County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. County will provide reasonable notice of such an audit or inspection.

County reserves the right to audit and verify Contractor's records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right to County to audit records and interview staff of any subcontractor related to performance of this Contract.

Should Contractor cease to exist as a legal entity, Contractor's records pertaining to this Contract shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to County's project manager.

19. **Disputes-Contract:** A. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by Contractor's project manager and County's project manager, such matter shall be brought to the attention of the County's Purchasing Agent by way of the following process:
 - a. Contractor shall submit to the agency/department Deputy Purchasing Agent a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to, or involving this Contract, unless County, on its own initiative, has already rendered such a final decision.

- b. Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, Contractor shall include with the demand a written statement signed by a senior official indicating the that demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which Contractor believes County is liable.

B. Pending the final resolution of any dispute arising under, related to, or involving this Contract, Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. Contractor's failure to diligently proceed shall be considered a material breach of this Contract.

Any final decision of County shall be expressly identified as such, shall be in writing, and shall be signed by the County Purchasing Agent or his designee. If County fails to render a decision within ninety (90) days after receipt of Contractor's demand, it shall be deemed a final decision adverse to Contractor's contentions. County's final decision shall be conclusive and binding regarding the dispute unless Contractor commences action in a court of competent jurisdiction.

20. **Substitutions:** Contractor is required to meet all specifications and requirements contained herein. No substitutions will be accepted without prior County written approval.
21. **EDD Independent Contractor Reporting Requirements (Blank Exhibit 2):** Effective January 1, 2001 the County of Orange is required to file federal Form 1099-Misc for services received from a "service provider" to whom the COUNTY pays \$600 or more or with whom the COUNTY enters into an AGREEMENT for \$600 or more within a single calendar year to the Employment Development Department (EDD). This information will be used by the EDD to assist in locating parents who are delinquent in their child support payments. An independent Contractor is defined as a sole proprietor who is not an employee of the business or government entity for which that individual is performing a service and who received compensation and/or executes a Contract for services performed or that business or government entity either in or outside of California.

Model Signature Page

The Parties hereto have executed this Contract for **Postini Perimeter Manager Enterprise Edition Software License(s) and Related Services** on the dates shown opposite their respective signatures below

Contractor:

By: _____ Title: _____
Print Name: _____ Date: _____

Contractor*:

By: _____ Title: _____
Print Name: _____ Date: _____

*If a corporation, the document must be signed by two corporate officers. The first signature must be either the Chairman of the Board, President, or any Vice President. The second signature must be the secretary, an assistant secretary, the Chief Financial Officer, or any assistant treasurers. **In the alternative, a single corporate signature is acceptable when accompanied by a corporate document demonstrating the legal authority of the signature to bind the company.**

County Of Orange

A political subdivision of the State of California



Sheriff-Coroner Department

By: _____ Title: _____
Print Name: _____ Date: _____

ATTACHMENT A Scope of Work / Pricing

Overview: Contractor shall provide to County Postini Perimeter Manager Enterprise Edition Software License(s) & message filtering services as specified in the Scope of Work / Pricing herein by issuing an activation key and granting access to Contractor's filter system through Internet connections.

I. Scope of Service:

A. SUMMARY SERVICES DESCRIPTION:

Contractor shall provide to County "Dedicated Support" which shall include:

- 24x7 Toll Free Dedicated Support
- Certified Technical Support Specialist for Postini
- Certified Microsoft Exchange Specialist
- Single Point of Contact
- Alternative Support Communication via Email, Instant Message, and Video Chat
- On-Premise Network Configuration and Maintenance
- On-Premise Support
- Monthly Health Check Reports
- Unlimited Message Trace, Non-Deliverable Report, Content Rule, Key Word, and Batch Command Adjustment and Microsoft Exchange Support
- Setup of products, including Postini and Individual Domains

Perimeter Manager - Enterprise Edition includes the following services:

- Spam Filtering
- Content and Transport Heuristics
- Real-Time Virus Protection
- Attachment Filtering
- Custom Content Filtering
- Connection Manager with Threat Detection and Blocking
- Delivery Manager with Throttling and Load Balancing
- Event Based Alerts
- Summary Email to End Users of Quarantined Messages
- Real-Time Monitoring and Graphic Reports
- Wireless Messaging
- Outbound Email Content and Attachment Filtering
- Compliance Footer Inserted into Outbound Email
- Outbound Virus Blocking

Key features of Perimeter Manager - Enterprise Edition include:

Spam Filtering

- Heuristic-based content analysis
- Customizable by organization and user groups
- End-user flexibility: users can customize own filters
- Quarantined messages are accessible via a web-based Message Center for review and disposition

Virus Protection

- All message parts are scanned for infected viruses, and infected messages are quarantined in the user's Postini Message Center for review and disposition
- Built-in protection from new techniques, including message fragments
- Industry leading McAfee AVERT provides dedicated connection to McAfee virus definition servers, protecting customers from new viruses
- Protect customers, clients, and associates from being infected through outbound email scanning and

blocking

Attachment Filtering

- Ability to block or re-route email messages containing large or harmful email attachments
- Productivity filters to allow administrators to create inbound and outbound email policies against employees sending music, sound, and movie files
- Allows trusted partners, customers, and associates to bypass stringent email policies through an optional "approved sender list" feature

Content Filters

- Create and enforce email usage policies (both inbound and outbound) with flexible content filters
- Define content-based exceptions to Spam filters.
- Monitor email usage through a non-intrusive log of filter activity

Industry Heuristics

- Content Heuristics designed specifically for specific industries and job functions identify traits and characteristics of the legitimate business email to significantly mitigate possibility of false quarantines
- Transport Heuristics identify communication networks by industry and job function, and authenticates inbound email from the network to modify the Spam filter threshold

Connection Manager

- Monitors SMTP traffic and blocks invalid connection attempts
- Immediate detection and automated response of Directory Harvest Attacks (DHAs) and other threats

Delivery Manager

- Regulates the delivery of messages across destination servers regardless of system platform or server location
- Throttling maximizes operating efficiency and throughput of each server
- Message delivery automatically redirects email flow to fail-over resources

Event-Based Alerts

- Generates notifications immediately during attacks and system outages
- Monitors status and notifies administrative team

Flexible Administration

- Policy structure allows for unique settings on at the user and group level
- Delegated administration model extends applications and controls based on job function and responsibilities
- Deploy services to end users as desired - multiple access controls to filters, white/black lists, and spam quarantine

Real-Time Monitoring and Graphic Reports

- System conditions monitored and reported via detailed reports hourly, daily, or weekly
- Detailed usage reports available hourly, daily, or weekly
- Includes usage audit record for policy enforcement and capacity planning
- Available via web user interface or download for further analysis and distribution

Wireless Messaging

- Forwards a copy of important email to a text page device or alternate email address

Disaster Recovery

- Provide Disaster Recovery services in order to spool inbound email continuously for approximately 24 hours in the case of network or server outages. The exact amount of allocated email spooling is determined by the number of user licenses purchased and detailed in the Contract.
- Deliver stored messages at a regulated rate to allow new inbound traffic to be received simultaneously.
- Manually initiate Disaster Recovery services during scheduled server maintenance and upgrades.

Compliance Footer

- Create a standard organization-wide email compliance footer to be automatically inserted into all outbound email.

B. SERVICE LEVEL:

1. SERVICE AVAILABILITY COMMITMENT

Contractor's Services shall be operational 99.999%, i.e., Outage Percentage shall be less than 0.001% in any given month. "Outage" means that Contractor fails to apply filtering in accordance with County's configuration selection. Outage shall not include service suspension for reasons outside of Contractor's sphere of control (Section 4 or during times of scheduled maintenance (Section B.5). If a dispute arises about whether or not an Outage occurred, Contractor shall make a determination in good faith based on its system logs, monitoring reports and configuration records, which Contractor shall make available for auditing by County at County's request. "Outage Percentage" means the percent of time during any given month during which an Outage occurred.

2. OUTAGE REPORTING PROCESS

When County notices an Outage or believes that there has been an Outage, County will inform Contractor's Customer Support Department in writing or by email within seven (7) days of first notice.

3. ADDITIONAL REMEDY

If an Outage occurs despite the fact that County fulfills all of its obligations under the Agreement, and if none of the exceptions in Section B.4 below applies, County shall have, in addition to any other remedy, the following remedy ("Additional Remedy"): Contractor shall provide County with a pro-rata credit on County's fee for the month in which the outage occurred. The pro-rata credit shall be calculated by multiplying the Outage Percentage with County's total monthly fee in the month during which the Outage occurred. Furthermore, if County experiences an Outage for three consecutive calendar months, County has the option to terminate the Agreement immediately without penalty.

4. EXCEPTIONS

County shall not have any remedies under the Terms of this Contract in connection with any failure of the Contractor Service that is caused by or associated with circumstances beyond Contractor's reasonable control, including, without limitation, acts of any governmental body, war, insurrection, sabotage, embargo, fire, flood, strike or other labor disturbance, except as delineated under section T of this Agreement.

5. SCHEDULED MAINTENANCE

Contractor will provide scheduled maintenance that will include any maintenance at third party data centers at which Contractor Services are hosted and any maintenance on Contractor's servers and software. In all cases where maintenance will be performed, County will be informed at least 48 hours in advance. Contractor will make all reasonable attempts to ensure that scheduled maintenance that affect the availability of Contractor Services for more than thirty (30) minutes is performed between 12:00 midnight and 5:00AM (PST), Monday through Friday, or between 12:00 noon to 5:00AM (PST) on Saturdays, Sunday, and holidays.

II. Pricing:

Annual Compensation includes 4,000 Mailboxes/Units and all services specified in this Scope of Work / Pricing.

Description	QTY	Unit of Measure	price
Postini mailbox (s) / units	4,000	mailbox / unit (each)	\$ _____ / Per Mailbox
Annual Compensation (4,000 mailboxes)	n/a	Contract shall not exceed:	\$ <u>(TBD)</u> / Per Contract Term

ATTACHMENT B

Compensation and Pricing Provisions

This is a fixed fee Contract between County and Contractor for goods and services provided in Attachment A, Scope of Work / Pricing. Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration for services.

1. Pricing

Pricing set forth in Attachment A shall be firm for the first term of the Contract. All price decreases will automatically be extended to the County of Orange. County will accept decreases only. Pricing will be firm unless a reduction is available.

2. Payment Terms

Invoices are to be submitted in annually in advance, unless otherwise directed in this Contract, upon the satisfactory completion and acceptance of commodity/services in accordance with Paragraph F, Acceptance/Payment.

Contractor shall reference Contract number on invoice. Payment will be net thirty (30) days after receipt of an invoice in a format acceptable to County and verified and approved by the Sheriff-Coroner Department and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with Contractor.

Billing shall cover services and/or goods not previously invoiced. Contractor shall reimburse County for any monies paid to Contractor for goods or services not provided or when goods or services do not meet the Contract requirements. Payments made by County shall not preclude the right of County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the goods or services.

3. Invoicing Instructions:

Payments and/or invoices are to be sent to:

County of Orange
 Sheriff Department/Information Services
 320 N. Flower St., 3rd Floor
 Santa Ana, CA 92703
 Attn: Melissa Saldana

Contractor will provide an invoice for services rendered, not more frequently than monthly. Each invoice will have a number and shall include the following information:

1. Contractor's name and address
2. Contractor's remittance address
3. County Contract number
4. Contractor's Federal I.D. number
5. Date of Order
6. Product description, quantity, prices
7. Sales tax, if applicable
8. Brief description of services

EXHIBIT 1**CHILD SUPPORT ENFORCEMENT REQUIREMENTS**

In order to comply with child support enforcement requirements of the County the required Contractor data and certifications must be submitted within 10 days of notification of award.

Failure of a bidder to submit the data and/or certifications required above shall result in the bid being deemed non-responsive and the bidder may be disqualified from being considered for Contract award. Subsequent to issuance of the Contract, failure to comply with all federal and state reporting requirements for Child Support Enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.

The certifications will be stated as follows:

"I certify that _____ is in full compliance with all applicable federal and state reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of Contract _____ with the County of Orange. I understand that failure to comply shall constitute a material breach of the Contract and that failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.

It is expressly understood that this data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders and for no other purposes and will be held confidential by those agencies.

Failure of the Contractor to timely submit the data and/or certifications required above or to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the Contract.

After notification of award, the successful Contractor may use the supplied form, page 25 of Invitation For Bid **060-582998-SY2**, to furnish required information listed above.

County of Orange Child Support Enforcement

Contract Certification

INSTRUCTIONS:

UPON NOTIFICATION OF SELECTION FOR CONTRACT AWARD/REQUEST FOR RENEWAL, **COMPLETE PART I AND PART II.**
RETURN COMPLETED FORM TO: SHERIFF-CORONER DEPARTMENT/PURCHASING SERVICES BUREAU, 320 N. FLOWER ST., SANTA ANA, CA 92703.

PART I

A. In case of an individual contractor, provide:

His/her name, date of birth, Social Security number, and residence address:

B. In the case of contractor doing business in a form other than as an individual, provide:

The name, date of birth, Social Security number, and residence address of each individual who owns an interest of 10 percent or more in the contracting entity; OR

C. *If your firm is a non-profit entity please indicate: "N/A, Non-Profit Organization" **OR** If no single person owns an interest of 10 percent or more please state this fact below.

(Please note: Part II "Certification" must also be signed and returned)

- 1. **Name:** _____
D.O.B. _____
SSN No: _____
Residence Address: _____

- 2. **Name:** _____
D.O.B. _____
SSN No: _____
Residence Address: _____

PART II

CERTIFICATION (PART I MUST ALSO BE COMPLETED)

I certify that _____ is in full compliance with all applicable Federal and State reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of Contract Number: _____ with the County of Orange.

I understand that failure to comply shall constitute a material breach of the contract and the failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the contract.

AUTHORIZED SIGNATURE _____

PRINTED NAME _____

TITLE _____

EXHIBIT 2

EDD-INDEPENDENT CONTRACTOR REPORTING REQUIREMENTS

Effective January 1, 2001 the County of Orange is required to file federal Form 1099-Misc for services received from a “service provider” to whom the COUNTY pays \$600 or more or with whom the COUNTY enters into an AGREEMENT for \$600 or more within a single calendar year. The purpose of this reporting requirement is to increase child support collection by helping to locate parents who are delinquent in their child support obligations.

The term “service provider” is defined in California Unemployment Insurance Code Section 1088.8, subparagraph B.2 as “an individual who is not an employee of the service recipient for California purposes and who received compensation or executes an AGREEMENT for services performed for that service recipient within or without the state.” The term is further defined by the California Employment Development Department to refer specifically to independent CONTRACTORS. An independent CONTRACTOR is defined as “as an individual who is not an employee of the ... government entity for California purposes and who receives compensation or executes an AGREEMENT for services performed for that ... government entity either in or outside of California.”

The reporting requirement does not apply to corporations, general partnerships, limited liability partnerships, and limited liability companies.

Additional information on this reporting requirement can be found at the California Employment Development Department web site located at www.edd.ca.gov/txicr.htm.

To comply with the reporting requirements of, County procedures for contracting with independent CONTRACTORS mandate that the following information be completed and forwarded to the contracting agency/department immediately upon request:

- First Name, Middle Initial, and Last Name
- Social Security Number
- Address
- Start and expiration dates of contract
- Amount of contract

PART I

First Name _____	Middle Initial _____	Last Name _____
SSN# _____	Date of Birth _____	
Address _____		
Contract No. _____		
Start Date _____	Expiration Date _____	
Dollar value of contract _____		

PART II

CERTIFICATION (PART I must also be completed)

I certify that _____ is in full compliance with all applicable Federal and State reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of Contract Number: _____ with the County of Orange.

I understand that failure to comply shall constitute a material breach of the contract and the failure to cure such breach within 60 calendar days of notice from the County shall constitute grounds for termination of the contract.

AUTHORIZED SIGNATURE _____

PRINTED NAME _____

TITLE _____

Question and Answers for Bid #060-582998-SY2 - Postini Perimeter Manager Enterprise Edition Software License(s) and Related Svs

OVERALL BID QUESTIONS

There are no questions associated with this bid. If you would like to submit a question, please click on the "Create New Question" button below.

Question Deadline: Dec 21, 2010 4:00:00 PM PST