

*M. J. Kreiser,<sup>1</sup> B.S. and B. W. Vander Kolk,<sup>1</sup> M.S.*

## Leasing Analytical Instruments: Advantages, Disadvantages, and Contract Procedures

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**ABSTRACT:** Leasing analytical instruments for forensic science laboratories is an alternative to purchasing. A discussion of the advantages and disadvantages is presented, and contract procedures are described in detail.

**KEYWORDS:** forensic science, contracts, laboratory equipment, leasing instruments, request for proposal

The Illinois Department of Law Enforcement, Bureau of Scientific Services' Forensic Science Laboratories faced a problem with deteriorating analytical equipment during the 1970s. Existing instruments had to be replaced, and increased staff needed additional instruments. Further, as available instruments became increasingly sophisticated, the laboratory system was not providing state-of-the-art or sufficiently efficient analyses.

Budgeting for additional equipment was frequently unsuccessful. Money for equipment was generally the first major area to suffer budget cuts at the department, Bureau of the Budget, and legislative levels. Equipment cuts in one fiscal year compounded the problem for subsequent years because larger increases were then needed. The situation became unmanageable and jeopardized timely, high-quality analysis. In 1978, an average of 50 instruments were inoperative at any given time. Repair and maintenance budgets did not cover the costs of vendor services, and instruments' repair costs exceeded actual value.

Inoperable instruments also affected other areas of operation. Case backlog and turnaround time increased as instruments were not available to complete analysis. Agencies and courts became concerned with the lengthy analyses and could not understand why their cases could not receive state-of-the-art analysis. Laboratories were unable to perform certain tests because they did not have adequate instruments, an inexcusable situation for forensic science laboratories which must deliver quality service to the criminal justice system. Attorneys and other participants in the criminal justice system attend training sessions, professional meetings, and seminars to become acquainted with modern methods of analysis. It is only natural for them to expect that level of service from laboratories servicing their area. The defense sector has more actively used private laboratories as rebuttal witnesses. Frequently those experts use the latest equipment.

Equally important was the adverse effect these problems had on employee morale. Individual efficiency levels were being reduced, and the majority of user complaints were being

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<sup>1</sup>Assistant bureau chief and bureau chief, respectively, Illinois Department of Law Enforcement, Bureau of Scientific Services, Springfield, IL.

directed at the forensic scientists. Forensic scientists take pride in being able to do as much as possible on a case. Knowing that this is not possible because of either antiquated or inoperable instruments is definitely demoralizing.

As the economic climate of the nation continues to perpetuate the concept of "cutback management," additional stress will be placed on laboratories to do more with less. Large expenditures of money for equipment will be even more difficult in the future. There is, however, an alternative to the often prohibitive purchase of needed equipment: leasing. It has been very successful for the Illinois Department of Law Enforcement. Leasing allows instruments to be obtained within reasonable budget confines. It is the intent of this article to provide you with (1) a comparison of advantages and disadvantages as experienced by the Illinois Department of Law Enforcement, (2) recommendations for procedural steps in leasing instruments, and (3) a sample request for proposal (RFP).

### **Leasing Analytical Instruments**

#### *Advantages*

1. The large cash infusion needed immediately to help upgrade and maintain modern instruments in a system can be reduced by spreading it over several years.
2. When the lease expires, the instrument can be returned to the lessor and replaced with a new leased instrument. The new instrument will cost only slightly more in the monthly lease payments. Increases in lease payments that have been constant for several years (term of lease) must surely be expected by any prudent person in this day and age.
3. Leasing results in the latest state of the art instrumentation being available for the forensic science laboratory. Generally speaking, a new "generation" of instruments appears to be developing every three to five years.
4. The departmental administration or legislature will be extremely reluctant to cancel a lease because of penalty clauses in a lease and the fact that either the instrument would then have to be purchased outright or the service eliminated.
5. Maintenance will be improved because maintenance contracts are normally required by the lessor as part of the financing agreement. Also, it appears that agencies with maintenance contracts receive higher priority service than those just making a call for service.
6. The agency will develop better contacts with and will be kept better informed by various vendors of new developments because they are aware that the laboratory system will be procuring new instruments when the lease expires.
7. A buy-out clause negotiated in the lease will allow for purchase at minimum cost of a particular piece of equipment originally leased but found to be particularly reliable and in excellent condition at lease expiration time.
8. If a new generation of instruments has not been developed and the instrument is reliable but a buy-out clause was not negotiated, the lease can be renewed at a reduced cost. The savings can then be used for leasing additional instruments.
9. Case processing and quality of analysis will be improved.
10. Individual case efficiency will be improved and resources will be more efficiently used.
11. Employee morale will be enhanced by being able to use modern instruments and state-of-the-art analysis.

#### *Disadvantages*

1. The total outlay of cash over the period of the lease will be greater than the purchase price.
2. Planning abilities of the agency must be sharpened and increased. Since it is not prac-

tical to renegotiate leases during the lease term, all accessories and related needs must be identified at the time of equipment selection. Furthermore, replacement of leased equipment must be carefully planned and coordinated.

### *Other Considerations*

In addition to the advantages and disadvantages previously discussed, there were concerns that did not fall in either category but still needed consideration:

(a) the staff time required to administer the establishment and maintenance of the program,

(b) access to an attorney and a financing expert to review and assist with technical lease procedures and development,

(c) insurance on the equipment (Illinois is a self-insured entity and the normal lease requires replacement or repair of equipment in the event of fire or natural disaster),

(d) the special laws (at least in Illinois) for the procurement or leasing of data processing equipment,

(e) the possibility of breaking a lease if a major advance in the state of the art made it feasible to do so (one must consider the impact of a government agency intentionally breaking a lease),

(f) a consideration of the types of instruments that should be leased; the Illinois Department of Law Enforcement only leases high-cost-short-life equipment such as gas chromatographs, mass spectrometers, high pressure liquid chromatographs, scanning electron microscopes, X-ray fluorescent emission spectrometers, and infrared spectrometers, and

(g) a clause in the negotiated lease for a monthly lease rate to cover the time period between lease expiration and installation of new equipment.

### **Recommended Procedural Steps**

The procedural steps followed by the Illinois Department of Law Enforcement consisted of two phases. The first phase consisted of the selection of instruments and was very similar to the usual process involved when purchasing instruments. The second phase consisted of the procurement of financial leasing and involved submitting requests for proposals to various leasing institutions (Table 1).

### **Sample Request for Proposal**

The sample request for proposal (Appendix 1) should be considered as a guide and is based on those regulations/requirements existing at the state level in Illinois. All references to the "State" may have to be changed to fit a particular agency's relationship to other governmental entities. For instance, a city laboratory might have to be cognizant of city regulations. However, in most cases, only minor variations would be required. The type of lease best suited to a particular operation should be decided with the assistance of the agency's legal and fiscal/procurement staff. Publications also can aid the agency in adequately preparing a request for proposal.

### **Summary**

Leasing is a workable alternative to outright equipment purchase. Leasing may make it possible for some organizations to procure equipment that under other circumstances would be unobtainable. Leasing will also simplify the replacement of obsolete equipment by minimizing budget increases to cover new equipment.

TABLE 1—Outline of the two phases in the process of leasing.

<i>Phase I</i>	<i>Phase II</i>
Selection of Equipment	Procurement of Financing Lease
A. Determine state of the art	A. Request for proposals (RFP) developed
B. Study specifications of or examine equipment designed to do the analysis required	B. RFP sent to vendors
C. Manufacturers invited to make a bid proposal to Department	C. Written questions due
D. Equipment selected	D. Bidders' Conference
E. Equipment ordered-delivery delayed to allow for:	E. Bidder's Conference minutes available
1. Time to manufacture equipment	F. Proposal due date
2. Time to prepare facilities	G. Announcement of successful bidders
3. Time to negotiate lease	H. Negotiations of contract
	I. Lease vendor pays for equipment after it's installed and accepted.
	J. Department initiates monthly lease payments to lease vendor.
	(NOTE: For further explanation of the above steps see sample RFP, Appendix 1)

The leasing procedure conducted by the Illinois Department of Law Enforcement, Bureau of Scientific Services, was broken into two major phases: (1) selection of equipment by a competitive process and (2) selection of a leasing company, also by a competitive process. The leasing company paid the equipment company for the equipment.

#### *Resources and Acknowledgments*

There are many sources of assistance for those wishing to develop an equipment leasing program. One source found to be quite informative concerning computer aspects was *Data Processing Contracts* by D. H. Brandon and S. Segelstein, Van Nostrand Reinhold, New York, 1976. Another informative viewpoint was given (at the University of Minnesota, 22 June 1979) in a presentation by Philip W. Schneck, vice president and general manager, Trans Union Medical Leasing Co.

Leasing companies and leasing divisions of equipment manufacturers can be of great assistance in explaining various programs or designing a special program. The legal staff of the Department of Law Enforcement and of the Illinois Department of Administrative Services provided invaluable assistance and guidance throughout the entire process. By coordinating the many resources available, a product meeting everyone's requirements can be produced.

#### **Appendix—Sample Request for Proposal**

##### INVITATION FOR BIDS

Sealed bids are requested by (your agency) for a leasing agreement to provide analytical scientific equipment.

Bids will be received at the office of (agency contact person), (agency address), until (time), prevailing time, (day and date), at which time all bids will be publicly opened and read aloud.

Complete information including specifications may be obtained at the office of (agency contact person & address), telephone \_\_\_\_\_. Inquiries should be clearly identified as such, to avoid confusion with actual proposals.

The (your agency) reserves the right to reject any or all bids.

Very truly yours,

XXX:x

Enclosures

Request for Proposal  
For Leasing Arrangements of  
Scientific Equipment

(date)

(transaction number)

(your agency)

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BID FORM

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(your agency)  
Request for Proposals  
Scientific Equipment Leasing Arrangements—(Transaction Number)  
(date)

### 1.0 Introduction

#### 1.1 *Purpose*

The purpose of this Request for Proposal (RFP) is to provide to the (your agency), the most favorable terms and conditions agreement for leasing given the requirements and conditions as outlined within this RFP. The resulting award and contract will be a Leasing Agreement for scientific equipment. Therefore, bid proposals for leasing arrangements are requested of third parties.

#### 1.2 *Scope—General*

In order to prepare a proposal, the bidders are to consider the following:

- A) The bid forms are designed for a straight lease (without option to purchase).
- B) The lease payments are to be on a monthly basis.
- C) Payments are to be in arrears.
- D) The lease term is to be for five (5) years for each unit (see Section 4.3).

#### 1.3 *Scenario of Bid Process*

This RFP is issued in order to determine the most cost effective method consistent with high standards of equipment reliability, service and efficiency by which the equipment described in Attachment 1 may be leased by (your agency).

(your agency) will review the bid proposals submitted by the bidders and will consider the leasing arrangements bid.

The award will be made to the proposer who offers the best overall financial package and benefits to (your agency) as determined by the Evaluation Committee based upon the evaluation criteria derived from this RFP and after final approval of the award by the (head of agency).

The Bid Forms are designed such that the bidder will bid on a straight “walk-away” lease.

### 1.4 *Scenario After the Awards Are Announced*

On or about  (date) , this leasing award should be announced. Immediately after the official award date,  (your agency)  will commence contract negotiations with the awardee of this RFP. The award will be made contingent upon successful negotiation of a contract.

The awardee will have five (5) working days in which to order the equipment specified after written notification has been given by the State.

### 1.5 *Definitions*

1. Any abbreviation used for your agency, i.e., Department of Law Enforcement (DLE).
2. Bidder, respondent and offeror are used interchangeably throughout this RFP.
3.  (your agency) , issuer and requestor are used interchangeably throughout this RFP.
4. Equipment manufacturer—Company who manufactures, markets and maintains the equipment within the RFP.

## 2.0 **Instructions to Bidders**

### 2.1 *Submission and Receipt of Bid Proposals*

All bid proposals must be received before  (time)  prevailing time on  (date)  as indicated below.

All bid proposals *must* be in a sealed container and must be clearly marked:

Sealed Bid  
 (transaction number)   
 (contact person)   
 (agency)   
 (address)

### 2.2 *Bid Opening*

The Bid Opening will be at  (time)  prevailing local time on  (date) . Each bidder *must* submit one signed copy and should submit four (4) additional signed copies of the Bidder's Proposal with all required attachments. No bids will be accepted after bid opening time. Bids received after the time specified in the invitation to bid will not be considered. The State of  (your state)  does not prescribe the method by which bids are transmitted; therefore, it cannot be held responsible for any delay, regardless of the reason in the transmission of bids. All responses will be opened and evaluated by the State of  (your state)  in closed sessions. Until the official award is made, the bidder *must not* make available nor discuss its proposal or



any parts thereof with any State employee unless allowed by the (chief fiscal officer), (your agency) in writing for purposes of clarification.

### 2.3 *Bidders' Conference*

A Bidders' Conference will be held at (time) prevailing local time on (date) at (location of your choice). The (location) is located                     . Please inform (contact person), (your agency), telephone           , if you intend to be present at this conference.

### 2.4 *Addenda*

As a result of the Bidders' Conference, or for any other reason, the State may issue an addendum or addenda to this RFP. Any such documents will be available at the office of (contact person), as detailed above. Also, such documents will be mailed to every firm who formally requested the RFP. It is the bidder's sole responsibility to be cognizant of the contents of all addenda to this RFP.

### 2.5 *Proposal Form*

The appropriate attachments for the bid proposals referred to in the RFP *must* be returned on the form or copy thereof, or format and contents as provided, and be properly executed. Instructions on the proper format are in Chapter 7.0 of this RFP.

### 2.6 *Signed Bids, Telegrams, Mailgrams*

*Only signed bids* will be accepted. No one except the bidder is allowed to change a bid before closing time for receipt of bids, and such bid *must* be sealed and signed before presentation to the State. No telegrams or mailgrams will be accepted. The bidder *must* agree to hold the bid open for at least 30 days from bid opening.

### 2.7 *Bid Security*

A Bid Security, in the form of a certified or cashier's check, in the amount of \$2,500 payable to the State of (your state), *must accompany bid submission* by the leasing-type company. The Bid Security will be returned to all unsuccessful bidders by registered or certified mail upon announcement of award or upon the decision not to award a contract. The Bid Security of the successful bidder will be returned following successful negotiation of a contract and payment for the designated equipment is complete.

Each leasing-type company need only submit one Bid Security check no matter how many alternate bids are submitted.

Lack of required performance by the awardee will result in damage claims by the State against the awardee at fault. These damages *shall include, but will not be limited to*, rental, lease, maintenance, equipment and personnel costs associated with the failure to meet the performance requirements.

## 2.8 *Financial Information*

All bidders *must* provide evidence of financial responsibility for a contract of this type. A copy of a current audited financial statement or other proof of financial responsibility must be sent to:

(chief fiscal officer)  
(your agency)  
(address)

All such information required by this paragraph should be sent under separate cover and be received prior to bid opening. Your financial material will be kept confidential unless otherwise required by law. *Please note that this material must be submitted separately from your bid proposal.* The State may require any additional information deemed necessary to determine the financial integrity and responsibility of any bidder.

## 2.9 *Alternate Bids*

Alternate bids may be submitted, if desired, but should be submitted as a completely separate bid. Such alternate bids should be clearly explained so as to eliminate unnecessary cross-referencing, recalculation and confusion. They may be submitted as one package.

## 2.10 *Negotiations*

The State reserves the right to negotiate with the successful bidder any additional terms and conditions which may be necessary or appropriate to the accomplishment of the purpose and scope of this RFP. The *entire* bidder's proposal *will be made* an integral part of the resulting contract. All policies and answers stated by the bidder will be held by the State as contractually binding on the successful bidder.

## 2.11 *Confidentiality*

All information submitted by the bidder, with the exception of 2.8, pertaining to the RFP, will be considered public information and will be made available for inspection for one year after the decision to award a contract based upon this RFP. This information will be available for public inspection during normal State business hours at the site of the requestor which issued this RFP. The respondent *is hereby warned* that no part of his proposal or any other material submitted may be marked as confidential, proprietary, or trade secrets, and that any material so designated will be made public information by its inclusion by the respondent.

## 2.12 *Reserved Rights*

This RFP may or may not result in an award of a contract. The State reserves the right to cancel this RFP at any time and for any reason and to reject any or all bids. Receipt of bid materials from the State or submission of a bid to the State confers no rights upon the bidder nor obligates the State in any manner. The State reserves the right to negotiate terms of the contract in addition to those terms described in this RFP. Any contract resulting as an award from this RFP is invalid until properly approved and executed by the (your agency). The State reserves the right to waive any immaterial defect in any bid.

2.13 *Award*

The Evaluation Committee will be the sole determiner of the assignment of points based upon the evaluation criteria and will make recommendations to the (head of your agency).

2.14 *Incurred Costs*

The State will not be liable in any way for any costs incurred by respondents in replying to this RFP.

2.15 *Clarification of Submittals*

The State reserves the right to obtain clarification of any point in a respondent's submittal or to obtain additional information.

2.16 *Bidder Questions and Inquiries*

Bidders having questions and inquiries *must* direct them in writing to:

(contact person)  
(address)

This *must* be received by the (date) deadline, or they may be raised at the Bidders' Conference.

After that date, only questions concerning administrative details will be accepted. These are to be referred to (fiscal officer), telephone \_\_\_\_\_.

2.17 *Protests*

After an award has been officially announced by (your agency), any bidders who submitted proposals and who wish to protest the award may do so in writing, setting forth the facts and circumstances to the (your agency) to be received no later than five (5) working days after the award has been made public by the (your agency).

Such protests will be immediately reviewed. The final decision on the protest will be made by the (head of your agency). Should the final decision by the (head of your agency) result in the affirmation of the original award, the contract negotiation will continue.

Should a protestor not follow these steps, the protest will not be considered.

2.18 *Movement of Equipment*

The State reserves the right to move the equipment at its own expense to alternate locations.

2.19 *Bid Forms*

The bidder *must* complete all the bid forms.

2.20 *Fiscal Year*

The State's Fiscal Year runs from  (date)  through  (date)  inclusive.

2.21 *Installation of Equipment*

At the present time it is planned that all of the equipment will be installed and accepted by  (month and year) . However, the bidder should be aware that the possibility does exist that a unit may be delayed. Therefore, the bidder is to bid lease rate factors and/or payments should installation be delayed.

2.22 *Insurance*

It is required that the successful bidder maintain insurance (see Section 4.19).

**3.0 Schedule of Events**

3.1 *Estimated Dates*

DATE	TIME	EVENT
_____	_____	Written questions due.
_____	_____	Bidders' Conference.
_____	_____	Bidders' Conference minutes available.
_____	_____	Proposal due date.
_____	_____	*Announcement of apparent successful bidders.
_____	_____	*Commence negotiations of contracts.
_____	_____	*Latest completion of contract negotiation.

\*Means estimated dates

**4.0 Leasing and Statutory Requirements**

4.1 *Lessee*

State of  (your state) ,  (your agency)  is the Lessee.

4.2 *Lessor*

The Lessor shall be the successful bidder who is awarded the bid by  (your agency) .

#### 4.3 *Lease Period*

The Lessee intends to keep the equipment for five (5) years. Due to State statutory requirements the base term will run from date of execution to June 30, 1982 with the term being renewed at each July 1 for additional one year periods through June 30, 1986, and such additional time as is necessary to total five (5) years. At the end of the lease term it is the Lessor's responsibility in assuring that the equipment is adequately packed and made ready for shipment. All costs, including freight, associated with this, are to be borne by the Lessor. (NOTE: Dates and periods of time up to the agency. Actual dates and periods of time left in paragraph to insure intent of section is understood.)

#### 4.4 *Payments*

A) The lease agreement shall commence on or about     (date)    .

B) Payment shall be made by     (your agency)     on a monthly basis in arrears.

#### 4.5 *Change in Ownership*

Should any change of ownership occur in the successful bidder's firm or company during the period of this lease, it will in no way increase costs or change any other term of the lease.

#### 4.6 *Equipment to Be Leased*

The equipment to be leased is referenced in Attachment 1. The successful bidder for leasing upon acceptance of a lease agreement with     (your agency)    , will be required to make payments to applicable parties in the amounts listed or such lesser amounts as specified by the State when instructed by the State and in the form and manner prescribed by the State.

These payments must be made within five (5) working days after receipt of instructions.

The State will contract with the equipment manufacturer to provide maintenance on the equipment while this equipment is in the possession of     (your agency)     and under the lease term. Substitute maintenance may be used if necessary and if approved by the Lessor. Such approval shall not be unreasonably withheld.

#### 4.7 *Alterations*

The State shall have the right to make any alterations, changes, modifications, additions and improvements to the equipment that may be necessary or desirable in connection with the use of the equipment for its intended purposes. All such miscellaneous equipment may be removed by the State upon termination of this agreement providing removal will not impair the operation of the leased equipment.

#### 4.8 *Title*

Title to the equipment to be leased shall remain with the Lessor and not in the State. Lessor shall have the obligation to defend against any title defects or claims and to indemnify the State for any costs or damages arising because of such defect or claim.

4.9 *Right and Authority*

The successful bidder represents and warrants that it has full right and authority to lease the equipment.

4.10 *OEM Warranties*

The successful bidder will provide original equipment manufacturer’s warranties or equivalent substitute warranties if manufacturer’s warranties are not available. Any other rights and privileges available to Lessor shall be made equally available to Lessee.

4.11 (YOUR STATE) *Laws Govern*

Any Lease Agreement resulting from this RFP shall be governed by the Laws of the State of (your state).

4.12 *Compliance with All Laws*

Lessor will comply with all applicable State, Federal and Local laws, ordinances, rules and regulations.

4.13 *Non-Appropriations Clause*

Obligations of the State shall cease immediately if in any fiscal year the State of (your state) Legislature or Federal Fundings Source fails to appropriate or otherwise make available funds for this contract or like contract. The State will use its best efforts to secure a sufficient appropriation to cover this contract.

4.14 *Tax Provision* (NOTE: This section may not be applicable to your agency.)

Lessee, due to tax number \_\_\_\_\_ and according to (your state) statute, is exempt from Federal or State personal property and income taxes. In the event Lessee is not exempt, Lessee will pay all taxes assessed against Lessee. In the event this transactions is not exempt, Lessee will reimburse Lessor for any taxes assessed by the State of (your state) except for taxes based on income.

4.15 *Notices*

All notices pursuant to the lease must be in writing and sent by certified or registered mail. Notices to the State shall be addressed as follows unless otherwise designated.

(contact person)  
(your agency)  
(address)

Bidder will designate an official address at time of award.

4.16 *Assignment*

Lessor shall not assign or sublet this lease or any of its rights thereunder without the consent of the State. Such consent shall not be unreasonably withheld.

4.17 *Equipment Damage or Destruction*

If during the term of this lease or any renewals the equipment is totally destroyed by fire, the elements, or any other cause not the fault of Lessee, then this lease shall become null and void from the date of such destruction and Lessee shall be liable for rent only until such date. Any prepayment shall be promptly refunded. If the damaged equipment is capable of being repaired, the State may, at its option, allow Lessor to repair the equipment.

4.18 *Representations*

Any unilateral warranty, statement, or representation made in writing by bidder will be considered as a part of its proposal and any resulting contract.

The bidder's response will become part of any resulting contract. No oral representations by State shall be binding. Addenda to the RFP must be in writing.

4.19 *Insurance*

Lessor is required to maintain at all times while this lease is in effect multi-peril insurance on the leased equipment for the remaining lease cost, or the full replacement cost of the equipment, whichever is greater. The (your agency) shall be considered a third party beneficiary of the policy and shall be subrogated to the rights of the insured.

Any such policy or policies shall include a provision that the State of (your state), (your agency) shall be notified in writing at least 30 days in advance of any cancellation. Lessor shall provide the State with a copy of such policy or policies. Lessor may not self-insure the equipment unless approved by the State.

4.20 *Quiet Enjoyment*

The State shall have the full right to use the equipment without interference from Lessor or others.

4.21 *Variance*

In the event that *all* bidders for leasing who are otherwise qualified fail to meet one or more material requirements, such requirement or requirements may be waived or modified in the best interest of the State.

4.22 *Lease Term and Conditions*

The bidder *must* agree to terms shown in the Sample Lease (Attachment 2) as varied by this RFP and by negotiations subsequent to award. This Sample Lease is provided to the bidder for informational purposes only and shall not be construed as the final lease form.

4.23 *Equipment Price Fluctuations*

Should the equipment vendor announce a price reduction prior to execution of the lease, the new lower price shall apply towards the computations of lease payments.

## 5.0 Evaluation Process

- 5.1 The proposals will be evaluated by a committee selected by the (head of your agency) or his designee. The purpose of the committee will be to compute the values to each of the criteria outlined below, to rank the bids and to recommend a vendor for the award of the contract.

Any proposal which does not comply to the mandatory requirements specified in the legal, financial, physical and functional specifications, detailed elsewhere in this RFP, will not be considered.

The evaluation criteria are as follows:

In the judgment of the Evaluation Committee, Bidder Responsibility will be determined prior to evaluation. A pass/fail decision will be made by the Evaluation Committee. Bidder Responsibility is related to, but not limited to, past performance, financial status, and corporate practice.

Evaluation:

The evaluation will take into account the lease rate factors and insurance factors contained on the bid forms. The technique to be used will provide the most favorable total financial package to the State.

In the event of a tie, an evaluation will be made of the bidder's corporate stability. Formulas to be used in this determination include, but are not limited to, the following types of ratios:

1. Liquidity
2. Profitability
3. Solvency

## 6.0 Bidder Questionnaire

### 6.0 *Company History*

How many years has the Bidder been in business?

Location of Bidder's corporate office.

What state was the Bidder's business incorporated in?

### 6.2 *Ownership and Management*

List the current owners of 7.5% or more of business entity.

List principal officers of the business entity.

### 6.3 *Company References*

List at least six (6) of your largest clients to be used as references (include telephone numbers).



6.4 *Financial Data*

Please immediately send a copy of a current audited financial statement (balance sheet and income statement) or other proof of financial responsibility to:

(fiscal officer)  
(your agency)  
(address)

Your financial materials will be kept confidential by the State unless ordered otherwise by the courts. Failure to submit adequate and current material will cost some assignment of point(s) by the Evaluation Committee.

6.5 *\*IFEPC Number*

Bidder will have to obtain or show proof of a current (your state) Fair Employment Practices Commission Number before execution of contract. IFEPC Number may be acquired from:

(your state) Fair Employment Practices Commission  
(address)

\*[NOTE: This section may or may not pertain to your state.]

6.6 *Representations*

The Bidder hereby declares that all the information contained herein is the truth and any misrepresentations found by the State may automatically disqualify the Bidder.

\_\_\_\_\_  
Business Name  
\_\_\_\_\_  
Signature of Authorized Rep.  
\_\_\_\_\_  
(Print Name)  
\_\_\_\_\_  
Title  
\_\_\_\_\_  
Date  
\_\_\_\_\_  
IFEPC Number  
\_\_\_\_\_  
FEIN or SS Number

**7.0 Bid Proposal Format**

7.1 *Introduction*

The following instructions describe the format in which bid proposals should be presented. The intent of these instructions is to provide a uniform format for bid responses

in order to assist the Evaluation Committee in the evaluation process. It is essential to the evaluation that the bidders' responses to this request be complete. Where appropriate, additional information may be provided. All responses should be presented in a clear concise manner.

7.2 *General Instructions*

Each bid proposal is to be completed in separate sections. Each section should contain a cover page identifying the section and the bidder. The pages within each section are to be numbered consecutively with the cover page designated as page number one.

- Section I General
- Section II Financial
- Section III Promotional Literature

7.3 *Specific Instructions for Each Section*

*Section I—General*

1. Transmittal letter and Bid Security Check
2. Executive Summary
  - A. Bidder's Qualification—General
  - B. General Summary of Recommendation
  - C. Bidder Support—General
3. Bidder's Explicitly Written Concurrence with Terms and Conditions of this RFP
  - A. Statement of Concurrence with Each Individual Requirement with the RFP
4. Bidder's Questionnaire (See Section 6)

*Section II—Financial*

1. Bid Forms
2. Bidder Explanation of Data in Bid Forms and Any Other Financial Information

*Section III—Promotional Literature*

1. Include in this section any relevant promotional literature (not including any price or cost data). Representations made in such literature are binding upon the bidder. The State may or may not choose to make use of such representations.

**Attachment 1—Equipment Description**

*Equipment to Be Leased*

Three (3) Tracor Spectrace 420 Energy Dispersive X-Ray Fluorescence Systems \$194,935.00  
 One each to:

\_\_\_\_\_  
 (address)  
 \_\_\_\_\_  
 (address)  
 \_\_\_\_\_  
 (address)

Three (3) Perkin-Elmer Model 683 Infrared Spectrophotometers with communications interfaces \$ 71,280.00

One each to:

\_\_\_\_\_  
 (address)  
 \_\_\_\_\_  
 (address)  
 \_\_\_\_\_  
 (address)

One (1) Perkin-Elmer Model 552A UV-Visible double-beam Spectrophotometer Recording System \$ 10,370.00  
 To:

\_\_\_\_\_  
 (address)

One (1) Hewlett Packard Model 1084B Liquid Chromatograph System \$ 40,689.16  
 To:

\_\_\_\_\_  
 (address)

Total Equipment costs to be financed \$317,274.16

**Attachment 2—Sample Contract**

This Master Equipment Lease, dated \_\_\_\_\_, is between \_\_\_\_\_ (Lessor) and the State of (your state), acting through the (your agency). In consideration of the premises and promises contained herein, the parties agree to the following:

Section *Lease of Leased Equipment*

Lessor hereby demises, leases and lets to Lessee, and Lessee rents, leases and hires from Lessor, for payments and upon and subject to the terms and conditions as herein set forth, the Leased Equipment for the duration of the Lease Term. The Equipment subject of this Lease is shown on schedule \_\_\_\_\_.

Section *Lease Term*

This Master Lease shall commence on \_\_\_\_\_ and shall continue in force and effect through June 30, 1982, with the term being renewed at each July 1 for additional one (1) year periods through June 30, 1986; and such additional time as is necessary to total five (5) years.

Section *Base Payments*

Lessee shall pay the Payments to the Lessor as provided in Schedule \_\_\_\_\_.

Each Payment hereunder shall be paid in lawful money of the United States of America to the Lessor at its address set forth below or at such other address as the Lessor shall provide by written notice to Lessee. Notwithstanding any dispute between Lessee and Lessor or Lessee and any other person or corporation, Lessee shall make all Payments when due and shall not withhold any Payments, unless the obligation to pay the same shall be terminated pursuant to the express provisions of this Lease. Except as specifically provided in this section, the Payments shall be absolute and unconditional in all events, and shall not be subject to any setoff, defense or counterclaim and Payment shall not be abated through accident or unforeseen circumstances. The parties agree that the Payments consist of the amortization

of purchase cost of the Equipment, lease service fees, insurance expenses and interest and further agree that such components will be designated in invoices submitted to Lessee by Lessor or its assigns. The Payments shall not be deemed to constitute a constitutional or statutory debt of the State of (your state) or the Lessee or a pledge of the full faith and credit or taxing authority of the State of (your state) or of the Lessee, but shall be payable out of general revenues of Lessee—funds of Lessee appropriated for such purposes by the State of (your state) for the fiscal year during which Payments are made.

Lessee reasonably believes that funds can be obtained sufficient to make all Payments during the Lease Term and hereby covenants that it will do all things lawfully within its power to obtain, maintain and to properly request and pursue funds from which the Payments may be made including, making provision for such payments to the extent necessary in each biannual or annual budget submitted for the purpose of obtaining funding, using its bona fide best efforts to have such portion of the budget approved and exhausting all available administrative reviews and appeals in the event such portion of the budget is not approved.

However, continuation of this contract is subject to the funds being appropriated or otherwise made available for this contract by the State Legislature or Federal Funding Source. If funds become unavailable, obligations of the State shall cease immediately.

#### Section *Maintenance*

At its own expense, Lessee shall service, repair and maintain the Leased Equipment so as to keep the Leased Equipment in good condition, repair, appearance and working order for the purposes intended, ordinary wear and tear excepted, and shall replace any part of the Leased Equipment as may from time to time become worn out, lost, stolen, destroyed, or damaged or is unfit for use. All such replacement parts, mechanisms and devices shall be free and clear of all liens, encumbrances and rights of others, shall become the property of Lessor and shall become subject to the terms and conditions of this Lease.

Lessee shall enter into, or cause to be entered into, and maintain in full force and effect during the Lease Term with manufacturer of the Leased Equipment a standard maintenance agreement covering the Leased Equipment. Lessee shall furnish evidence to Lessor of such signed maintenance agreement at or prior to the date of this Lease. Substitute maintenance may be used if necessary and if approved by the Lessor.

#### Section *Taxes* (NOTE: This Section may not be applicable to your agency).

Lessee, due to tax number \_\_\_\_ and according to the (your state) Revised Statutes, 1977, is exempt from any Federal and/or state personal property and income taxes. In the event Lessee is not exempt, Lessee will pay all taxes assessed against Lessee. In the event this transaction is not exempt, Lessee will reimburse Lessor for any taxes assessed by the State of (your state), except for taxes based on income.

#### Section *Failure to Make Rental Payment/Default*

If Lessee fails to make any payments or fails to perform or comply with any of its covenants or obligations herein contained, Lessor may, after 30 days notice of intended action, make such payment, or perform or comply with such covenant or obligation. Lessor shall be entitled to reimbursement by Lessee for all expenses incurred in connection therewith.

A default by either party that is not cured within 30 days will allow the injured party to declare the contract in breach and cancel the contract or take whatever action in law or equity that is necessary to cure the default.

Section *Insurance*

Lessor shall maintain at all times while any Lease or subsequent renewal is in effect multi-peril insurance on the Leased Equipment for the remaining Lease cost, or the full replacement cost of the Equipment, whichever is greater. The State of (your state), (your agency) shall be considered a third party beneficiary of the policy and shall be subrogated to the rights of the insured. Any such policy or policies shall include a provision that the State of (your state), (your agency) shall be notified in writing at least thirty (30) days in advance of any cancellation. Lessor shall provide the State with a copy of such policy or policies. Lessor may not self-insure the Equipment.

Section *Damage or Destruction of Leased Equipment*

If during the term of this Lease or any renewals, the Equipment is totally destroyed by fire, the elements, or any other cause not the fault of Lessee, then this Lease shall become null and void from the date of such destruction and Lessee shall be liable for rent only until such date. Any prepayment shall be promptly refunded. If the damaged Equipment is capable of being repaired, the State may, at its option, allow Lessor to repair the Equipment.

Section *Disclaimer of Warranties; Compliance with Laws and Rules*

LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR USE OF ANY OF THE LEASED EQUIPMENT OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE LEASED EQUIPMENT. Lessor hereby assigns to Lessee for and during the Lease Term all manufacturer's warranties or guarantees, express or implied, issued on or applicable to the Leased Equipment and Lessor authorizes Lessee to obtain the customary services furnished in connection with such warranties or guarantees at Lessee's expense. Lessee acknowledges that the Leased Equipment has been purchased by Lessor in accordance with Lessee's specifications and from a vendor or vendors selected by Lessee, that Lessor is not a manufacturer or dealer in such Leased Equipment, and that Lessor has made no representation or warranty and assumes no obligation with respect to the merchantability, condition, quality or fitness of the Leased Equipment or the enforcement of the manufacturer's warranties or guarantees.

Section *Utilities; Use; Licenses*

Lessee shall pay all charges for gas, water, steam, electricity, light, heat or power, telephone or other utility service furnished to or used on or in connection with the Leased Equipment (including any charges for installation of such services) during the Lease Term. There shall be no abatement of Base Payment on account of interruption of any such services.

Lessee will not install, use, operate or maintain the Leased Equipment improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Lease. Lessee shall provide all permits and licenses, if any, necessary for the installation and operation of Leased Equipment and shall pay all costs, expenses, claims, damages, fees and charges incurred in connection with Lessee's use and operation of the Leased Equipment.

### Section *Alterations*

Lessee shall have the right to make any alterations, changes, modifications, additions, and improvements to the Equipment that may be necessary or desirable in connection with the use of the Equipment for its intended purposes. All such miscellaneous Equipment may be removed by Lessee upon termination of this agreement providing removal will not impair the operation of the Leased Equipment.

Lessee, at its option, may require the successful bidder to purchase the aforementioned alterations, changes, modifications, additions and improvements and lease them back such that they shall be co-terminus with the Equipment in this Lease. The bidder *must* provide a lease rate factor at such time which is equivalent to or lower than that which is proposed with this bid considering the length of the remaining term, etc.

### Section *Assignment*

Lessor may assign rights in this Lease to third parties but such assignment shall not relieve Lessor of any obligation nor impose any burden on Lessee. Lessee may assign this Lease with consent of Lessor. Such consent shall be liberally granted.

### Section *Notices*

All notices to be given under the Lease shall be made in writing and mailed to the other party postage prepaid, certified, return receipt requested at its address set forth herein or at such address as the party may provide in writing from time to time.

### Section *Section Headings*

All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

### Section *Waiver*

The waiver by Lessor of any breach by Lessee of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant or condition hereof.

### Section *Governing Law*

This Lease shall be governed exclusively by the provisions hereof and by the laws of the State of (your state).

### Section *Execution*

This Lease may be executed in any number of counterparts, each of which shall be deemed to be an original, but all together shall constitute but one and the same agreement. It is also agreed that separate counterparts of this Lease may separately be executed by Lessee and Lessor all with the same force and effect as though the same counterpart had been executed by both parties.

### Section *Miscellaneous*

This Lease, together with the Exhibits hereto including the Equal Opportunity Clause and the Lessor's written representations are hereby incorporated herein by reference to the extent

applicable hereto, constitutes the entire agreement between the parties with respect to the Leased Equipment and this Lease shall not be modified, amended, altered or changed except in writing as herein provided. Any provision of this Lease found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of this Lease. Subject to the specific provisions of this Lease, this Lease shall be binding upon and insure to the benefit of the parties and their respective successors and assignees.

Section *Bribery*

Lessor certifies that they have not been convicted of bribery or attempting to bribe an officer or employee of the State of (your state), nor has the Lessor made an admission of guilt of such conduct which is a matter of record.

Section *Liens*

Lessee shall not directly or indirectly create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Leased Equipment, except with respect to the respective rights of Lessor and Lessee as herein provided. Lessee shall promptly, at its own expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, charge, encumbrance or claim not excepted above if the same shall arise at any time.

Section *Enjoyment of Leased Equipment*

Lessor hereby covenants to provide Lessee during the Lease Term with quiet use and enjoyment of the Leased Equipment, and Lessee shall during the Lease Term peaceably and quietly have and hold and enjoy the Leased Equipment, without suit, trouble or hindrance from Lessor, except as expressly set forth in this Lease. Any assignee of the Lessor shall not interfere with such quiet use and enjoyment during the Lease Term so long as Lessee is not in default pursuant to this lease.

Section *Title to Leased Equipment; Security Agreement; Documents for Assignment*

Lessee shall have no right, title or interest in the Leased Equipment or any additions, repairs, replacements or modifications thereto except as expressly set forth in this Lease. Lessee hereby grants to Lessor a security interest in any interest of Lessee in this Lease, the Leased Equipment and payments due under the Lease. Lessee agrees to execute and deliver all statements and instruments necessary or appropriate to evidence the respective interest of the Lessor and Lessee in the Leased Equipment, this Lease and all payments due hereunder the connection with the assignment hereof. Also, if requested by Lessor, Lessee shall conspicuously mark the Leased Equipment with appropriate lettering, labels or tags, and maintain such markings during the Lease Term, so as to clearly disclose that title to the Leased Equipment is in Lessor.

Section *Personal Property*

The Leased Equipment is, and shall at all times be and remain, personal property notwithstanding that the Leased Equipment or any part thereof may not be, or hereinafter become, in any manner affixed or attached to, or inbedded in, or permanently resting upon, real property or any building thereon or any fixtures, or attached in any manner to what is permanent as by means of cement, plaster, nails, bolts, screws or otherwise. Lessee shall obtain as to any place where the Leased Equipment is located, a waiver from the landlord and/or mortgagee thereof with respect to any rights they may have under local law to levy or

distrain on the Leased Equipment and shall obtain the legal description of the real estate upon request by Lessor.

Section *Acceptance of Leased Equipment; Inspection*

Equipment must be accepted by Lessee prior to any payment being made. If Equipment does not meet acceptance criteria, first payment may be delayed or reduced.

Subject to Lessee's security requirements, Lessor shall have the right at all reasonable times during business hours to enter into and upon the premises wherein the Leased Equipment may be located for the purposes of inspecting the same or observing its use.

**Bid Form**

*October 1981    November 1981    December 1981*

Lease rate factor (including insurance) \_\_\_\_\_

The factors supplied above are to be utilized for the duration of that month. That is, if one unit of equipment is leased beginning October 1, 1981 and another October 15, 1981 then the factors for October 1981 are applicable to each in computing the monthly lease payment for the five year lease.

This bid must remain open for thirty (30) days.

**Bid Authorization and Commitment**

Bidding Firm Name: \_\_\_\_\_

By: \_\_\_\_\_  
(Authorized Signature)

Name: \_\_\_\_\_  
(Type or Print Name)

Title: \_\_\_\_\_  
(Type or Print)

If bidder is a corporation, add proper attestations.