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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

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11 MARCIANO PLATA, et al.,
12 *Plaintiffs,*
13 v.
14 ARNOLD SCHWARZENEGGER, et al.,
15 *Defendants.*

Case No. C01-1351 TEH

**[PROPOSED] ORDER GRANTING
RECEIVER'S SUPPLEMENTAL
APPLICATION NO. 7 FOR ORDER
WAIVING STATE CONTRACTING
STATUTES, REGULATIONS AND
PROCEDURES AND AUTHORIZING
RECEIVER TO ENTER INTO
CONTRACT FOR QUALITY
MEASUREMENT TECHNICAL
ASSISTANCE**

1 The Receiver submitted his Supplemental Application No. 7 for a waiver of State
2 statutes, regulations and procedures to permit him to enter into a contract with RAND
3 Corporation for Quality Measurement Technical Assistance in developing measurement tools to
4 measure quality improvement in the prison medical health care system. The Court having
5 considered the Application, and good cause appearing,

6 IT IS HEREBY ORDERED that the following State statutes, regulations and procedures
7 are waived with respect to the project described in the Application:

8 Government Code (“Gov’t Code”) §§ 14825 – 14828 and State Contracting Manual
9 (“SCM”) §§ 5.10A, 5.75, 5.80 (governing advertisement of State contracts).

10 Public Contracts Code (“PCC”) §§ 10290 – 10295, 10297, 10333, 10335, 10351, 10420 –
11 10425; Gov’t Code § 14616; SCM §§ 4.00 – 4.11; (governing approval of contracts by
12 Department of General Services (“DGS”) and exemption from and consequences for failure to
13 obtain DGS approval).

14 PCC §§ 10308, 10309, 10314; SCM vol. 2, State Administrative Manual (“SAM”) §§
15 3500 – 3696.3 (governing procurement of goods).

16 PCC §§ 6106, 10109 – 10126, 10129, 10140, 10141, 10180 – 10185, 10220, 10301 –
17 10306, 10340 – 10345, 10351, 10367, 10369; Gov’t Code §§ 4525 – 4529.20, 4530-4535.3,
18 7070-7086, 7105-7118, 14835-14837; and Mil. & Veterans Code §§ 999-999.13; 2 CCR §§ 1195
19 – 1195.6; SCM §§ 5.00 – 6.40 and Management Memo (“MM”) 03-10 (governing competitive
20 bidding, required language in bid packages, Non-competitive Bid (“NCB”) procedures,
21 preferential selection criteria, contractor evaluations and notice, contract award and protest
22 procedures for service, consulting service, construction project management and public works
23 contracts).

24 PCC §§ 10314, 10346 (progress payment limitations).

25 Gov’t Code § 13332.09 and MM 06-03 (governing vehicle purchases).

26 PCC §§ 12100 – 12113, 12120 – 12121, 12125 – 12128; SCM vol. 3; SAM §§ 4800 –
27 4989.3, 5200 – 5291 (governing procurement of IT, telecommunication and data processing
28 goods and services and applicable alternate protest procedures).

1 Gov't Code §§ 13332.10, 14660, 14669, 15853 (governing acquisition and leasing of real
2 property).

3 Gov't Code §§ 13332.19, 15815 (governing plans, specifications and procedures for
4 major capital projects).

5 PCC §§ 10365.5, 10371; SCM § 3.02.4 (governing restrictions on and approval for
6 multiple contracts with same contractor).

7 IT IS FURTHER ORDERED that the Receiver is authorized to enter into the proposed
8 contract with RAND Corporation.

9 IT IS FURTHER ORDERED that as with previous contracts that have been the subject of
10 waiver applications, the Receiver may publish provisions requiring contractor certifications of
11 compliance with various State laws (e.g., nondiscrimination) on his or the State's website and
12 include a single representation in the contracts he awards to the effect that the contractor has
13 read, and attests that he/she/it is in compliance with, the required provisions.

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15 Dated: _____, 2008.

Hon. Thelton E. Henderson
United States District Judge

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CERTIFICATE OF SERVICE

The undersigned hereby certifies as follows:

I am an employee of the law firm of Futterman & Dupree LLP, 160 Sansome Street, 17th Floor, San Francisco, CA 94104. I am over the age of 18 and not a party to the within action.

I am readily familiar with the business practice of Futterman & Dupree, LLP for the collection and processing of correspondence.

On September 2, 2008, I served a copy of the following document(s):

[PROPOSED] ORDER GRANTING RECEIVER'S SUPPLEMENTAL APPLICATION NO. 7 FOR ORDER WAIVING STATE CONTRACTING STATUTES, REGULATIONS AND PROCEDURES AND AUTHORIZING RECEIVER TO ENTER INTO CONTRACT FOR QUALITY MEASUREMENT TECHNICAL ASSISTANCE

by placing true copies thereof enclosed in sealed envelopes, for collection and service pursuant to the ordinary business practice of this office in the manner and/or manners described below to each of the parties herein and addressed as follows:

 BY FACSIMILE: I caused said document(s) to be transmitted to the telephone number(s) of the addressee(s) designated.

 X BY MAIL: I caused such envelope(s) to be deposited in the mail at my business address, addressed to the addressee(s) designated below. I am readily familiar with Futterman & Dupree's practice for collection and processing of correspondence and pleadings for mailing. It is deposited with the United States Postal Service on that same day in the ordinary course of business.

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22 I declare that I am employed in the offices of a member of the State Bar of this Court at
23 whose direction the service was made. I declare under penalty of perjury, under the laws of the
24 united State of America, that the above is true and correct.

Executed on September 2, 2008 at San Francisco, California.



Lori Dotson