

Rule 10. Contracting with Vendors for Information Technology Services.

If a court or court administrator contracts with a vendor to perform information technology related services for the judicial branch: (a) "court records" shall include all recorded information collected, created, received, maintained or disseminated by the vendor in the performance of such services, regardless of physical form or method of storage, excluding any vendor-owned or third-party-licensed intellectual property (trade secrets or copyrighted or patented materials) expressly identified as such in the contract; (b) the vendor shall not, unless expressly authorized in the contract, disclose to any third party court records that are inaccessible to the public under these rules; (c) unless assigned in the contract to the vendor in whole or in part, the court shall remain the custodian of all court records for the purpose of providing public access to publicly accessible court records in accordance with these rules, and the vendor shall provide the court with access to such records for the purpose of complying with the public access requirements of these rules.

(Added effective July 1, 2005.)

Advisory Committee Comment - 2005

The 2005 addition of Rule 10 is necessary to ensure the proper protection and use of court records when independent contractors are used to perform information technology related services for the courts. Where the service involves coding, designing, or developing software or managing a software development project for a court or court administrator, the court or court administrator would typically retain all record custodian responsibilities under these rules and the contract would, among other things: (a) require the vendor to immediately notify the court or court administrator if the vendor receives a request for release of, or access to, court records; (b) prohibit the disclosure of court records that are inaccessible to the public under these rules; (c) specify the uses the vendor may make of the court records; (d) require the vendor to take all reasonable steps to ensure the confidentiality of the court records that are not accessible to the public, including advising all vendor employees who are permitted access to the records of the limitations on use and disclosure; (e) require the vendor, other than a state agency, to indemnify and hold the court or court administrator and its agents harmless from all violations of the contract; (f) provide the court or court administrator with an explicit right to injunctive relief without the necessity of showing actual harm for any violation or threatened violation of the contract; (g) be governed by Minnesota law, without giving effect to Minnesota's choice of law provisions; (h) include the consent of the vendor to the personal jurisdiction of the state and federal courts within Minnesota; and (i) requires all disputes to be venued in a state or federal court situated within the state of Minnesota.