



# Superior Court of California, County of Contra Costa

## New Antioch Area Courthouse

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### **Request for Architectural and Engineering Qualifications**

**The Administrative Office of the Courts, Office of Court Construction and Management seeks to identify a number of architects and their consulting engineering team qualified to provide services in all phases of design and construction of a new courthouse for the Superior Court of California, County of Contra Costa, in the Antioch area.**



**ADMINISTRATIVE OFFICE  
OF THE COURTS**

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**OFFICE OF COURT CONSTRUCTION  
AND MANAGEMENT**



**Judicial Council of California**  
ADMINISTRATIVE OFFICE OF THE COURTS

455 Golden Gate Avenue • San Francisco, California 94102-3688  
Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

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## REQUEST FOR QUALIFICATIONS

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Date

July 5, 2005

Action Requested

You are invited to review and respond with a Statement of Qualifications ("SOQ")

To

Qualified Consultants

Project Title:

RFQ number: OCCM-A&E-M10175

From

Administrative Office of the Courts,  
Office of Court Construction and  
Management

Deadline

SOQ must be received by 1 p.m. on  
Wednesday, July 27, 2005

Subject

Request for Qualifications of Architectural,  
Engineering, and Related Services;

Send Statements of Qualifications to:

Judicial Council of California  
Administrative Office of the Courts  
Attn: Ms. Nadine McFadden  
455 Golden Gate Avenue, 7<sup>th</sup> Floor  
San Francisco, CA 94102

Superior Court of California, County of  
Contra Costa  
New Antioch Area Courthouse

*(Indicate RFQ Number and Project Name on  
lower left corner of envelope)*

Contact

[nadine.mcfadden@jud.ca.gov](mailto:nadine.mcfadden@jud.ca.gov)

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### 1.0 BACKGROUND INFORMATION

The Judicial Council of California, chaired by the Chief Justice of California, is the primary policy making body of the California judicial system. The Administrative Office of the Courts (AOC) is the staff agency of the Judicial Council. The Office of Court Construction and Management (OCCM), is the division of the AOC responsible for the planning, design, construction, real estate and asset management of facilities for the Superior and Appellate Courts of California.

The mission of OCCM is to enhance the administration of justice by providing responsible and efficient professional stewardship of the court facilities of California; to promote excellence in the built environment in support of equal access to justice; and to provide leadership in the design and management of judicial architecture.

The Trial Court Facilities Act of 2002 (SB 1732, Escutia) as amended, among other requirements, will shift the governance of California's Superior Court buildings from the counties to the state, commencing July 1, 2004 and completing by June 30, 2007. The current inventory is comprised of over 450 court buildings containing approximately ten million usable square feet of space devoted to court occupancy.

Under SB1732, the Judicial Council has authority to "recommend to the Governor and the Legislature the projects [that] shall be funded from the State Court Facilities Construction Fund." In support of this responsibility of the Council, OCCM has developed a capital outlay plan for the trial courts, following an intensive 2-1/2 year trial court facilities master planning effort. The capital outlay plan, which has been approved by the Judicial Council can be reviewed at <http://www.courtinfo.ca.gov/reference/fiveyear.htm>. In addition to major capital outlay projects, OCCM anticipates many special repair projects each year for which architectural and engineering services will be required. A separate Request for Qualifications (RFQ) will be issued for services related to capital outlay and special repair projects beyond the project described in this document.

## **2.0 PURPOSE OF THIS RFQ**

OCCM seeks the services of a qualified architectural and engineering consulting team led by an architect licensed in California (the Consultant) with expertise in all phases of planning and design of public buildings.

This RFQ is the means for prospective Consultants to submit their qualifications to the OCCM for the project described in Attachment A for the services described in this document. The RFQ and its Attachments A & B, the Standard Agreement template, Form 330, Payee Data Record form, and all addenda will be posted at <http://www.courtinfo.ca.gov/reference/rfp/>.

## **3.0 SCOPE OF SERVICES**

The scope of architectural, engineering and related services for the project described in this RFQ and its Attachment A may include some or all of the following services:

- 3.1 **Site Analysis and Selection:** Participate in and/or perform detailed site selection and analysis for a new court building, including required countywide, urban, regional, court campus or site-specific development planning;

- 3.2 **Site Acquisition Consultation:** Participate in and coordinate with AOC staff, legal counsel, consultants and real estate brokers in site acquisition activities, and assist with or prepare related documentation, including but not limited to feasibility studies, economic analyses or pro forma, market or demographic surveys or studies, or preliminary project concept design alternatives, as requested, (Real Estate brokerage services are not included in scope of services of this RFQ);
- 3.3 **Land Use Entitlement:** Participate in the preparation of environmental studies and reports as required under CEQA and related local and state laws and regulations; (Environmental site surveys and hazard documentation; EIR preparation; and site remediation services are not included in scope of services of this RFQ);
- 3.4 **Development Studies:** Conduct or participate in planning, parking and traffic, zoning, geotechnical, on-site and off-site utility and related utilization studies required for site consideration and acquisition and for project development and approvals;
- 3.5 **Functional Programming and Detailed Space Planning:** Conduct functional programming, design definition and space planning for court building functions, including surveys for existing facilities and develop or assist in the development of court building project requirements documents, including complete site, functional and space requirements, conceptual building and test fit studies;
- 3.6 **Architectural and Engineering Design Services for New Construction:** Provide architectural, structural, civil, mechanical, electrical, plumbing, sustainable and LEED™ design, security, acoustical, interior design, lighting, audio visual, data/telecommunications, graphics design, and related services which may be required in connection with planning, design and a new building project. Special services that may be requested including but not limited to, geotechnical engineering; land surveys; wind engineering; vibration control; life safety/code consulting; audio visual; physical and electronic security design; parking structure design; parking revenue control; and public art.

Services may be required in any or all project phases including schematic design, design development, construction documents, bidding, and construction contract administration;

- 3.7 **Planning and Building Code Analyses:** Conduct and/or participate in all building and planning code analysis and reviews, including progressive, final and forensic;

- 3.8 **Contracting and Sourcing:** Provide consultation on and analysis of methods of sourcing for new building projects, including traditional design-bid-build and alternate general contracting; participate in preparation of associated conventional or unique contract documents required for procurement; participate in construction contract bid analysis of general and special construction and, or construction management contracts; (Legal services, construction management, and construction services are not included in the scope of services in this RFQ);
- 3.9 **Cost Analysis and Schedule Planning:** Provide, conduct and/or participate in all aspects of project cost estimating and schedule planning, including construction estimating, life cycle costing, value engineering, constructability reviews, critical path and special scheduling;
- 3.10 **Design Services for Furniture, Fixtures and Equipment:** Provide all services required to properly plan, design, specify and coordinate furniture, fixtures, special finishes and equipment, including but not necessarily limited to: interior design, including millwork and furniture planning, finish development and specification;
- 3.11 **Site Planning and Landscape Architecture:** Provide all services required to properly plan, design, specify and coordinate exterior site design, including grading, parking lots, roads, driveways, hardscape, landscape, irrigation and coordination of underground utilities and or building structures with landscape and hardscape elements;
- 3.12 **Construction Contract Administration:** Construction contract administration services, including field observations, submittal review, review of testing and inspection reports required by the bid documents (testing laboratory or construction inspection services are not part of this RFQ), coordination of finishes, furnishings and equipment, evaluation of specialized pricing and consideration/negotiation of changes, and project contract completion, including punch list, warranty review, preparation of record drawings and closeout;
- 3.13 **Building Commissioning:** Participation in development of building commissioning documents and procedures; specification of commissioning procedures, and participation in commissioning program. (Specialized Commissioning agent services are not part of this RFQ);
- 3.14 **Move and Occupancy Planning:** Planning, design and execution of temporary relocation, move planning, and start-up assistance;

- 3.15 **Public Art:** For projects that include a public art component provide the services of an artist experienced in creation and installation of artworks in and surrounding public buildings;
- 3.16 **Peer Review Panel:** Participate in peer reviews of projects for which the Consultant is not associated, if requested; (OCCM may institute a process of project reviews to be conducted by panels that include Architects and Engineers knowledgeable about court design but not associated with the particular project to be reviewed; peer reviewers would receive limited compensation for their participation).
- 3.17 **Sustainable Design and LEED™ Requirements:** Project shall be designed for sustainability and at a minimum, to the standards of a LEED™ 2.1 “Certified” rating. Depending on the project’s program needs and construction cost budget, projects may be required to meet the standards of a LEED™ 2.1 “Silver” rating. At the outset of a project, the AOC will determine whether a project will participate in the formal LEED™ certification process of the United States Green Building Council (USGBC).

#### 4.0 SPECIFICS OF A RESPONSIVE SOQ

- 4.1 Each Consultant’s Statement of Qualifications (SOQ) should clearly and accurately demonstrate specialized knowledge and experience required for consideration. Submit five (5) copies in paper form of the SOQ, which consists of a Cover Letter and Standard Form 330, (Parts I and II). SOQ shall be prepared in a bound 8.5” x 11” booklet format, preferably using tabs to divide sections of the Form 330. Attachments, except as noted, will not be accepted. In addition to the SOQ, please submit a) one (1) original of the Payee Data Record form completed in the exact legal name of the Consultant’s business signed by an authorized representative of the prospective Consultant. (Do not bind Payee Data Record form into the booklets.) and b) one (1) compact disk containing the complete SOQ and Payee Data Record form.
- 4.2 A **Cover letter**, signed by an authorized representative of the prospective Consultant, shall include the name, address, telephone, fax number, e-mail address, and federal tax identification number of the proposing Consultant. (one page maximum)

- 4.3 **Standard Form 330**, (U.S. General Services Administration):
- 4.3.1 Part 1 (A – D): Identify the prospective Consultant’s point of contact, proposed team comprised of the Architect and only key sub-consultants, Structural, Mechanical, Electrical, and LEED/Sustainability (if proposed), and an organizational team chart for the project described in Attachment A;
  - 4.3.2 Part 1 (E): Resumes of key personnel of the proposed team for the project. For the Consultant, include principal-in-charge for this project, project manager, project architect, and project designer. For the sub-consultants, include principal-in-charge for this project and project engineer. (one page per person maximum);
  - 4.3.3 Part 1 (F): Examples of the prospective Consultant’s projects (no more than 10 projects) which best illustrate their qualifications for the scope and size of the specific project. Provide one attached page following the text page for each project for supporting photographs and/or graphics. Indicate any projects accomplished by current firm staff conducted while under the employment of others. Projects shall be relevant to California courts or buildings of similar complexity completed in the last ten (10) years and demonstrate the Consultant’s ability and experience to successfully complete this court project. Provide Owner’s information as a reference contact. (two pages per project maximum);
  - 4.3.4 Part 1 (G): Key personnel participation of the proposed team and their participation in the project examples from Part 1 (F). (One page maximum);
  - 4.3.5 Part 1 (H): The prospective Consultant shall describe: a) its approach to the design of public buildings, and b) its response to the selection criteria listed in 7.0 of this RFQ. This section shall be signed by an authorized representative of the prospective Consultant. (4 pages maximum)
  - 4.3.6 Part II: Provide general qualifications for the Consultant’s office or branch office that is performing the work described in the RFQ. Fill in sections 1 through 9. Part 9 shall indicate current employees by discipline. Section 12 shall be signed by an authorized representative of the prospective Consultant. Parts 4, 5b, 8c and 11 are not required.
- 4.4 Responsive SOQs should provide straightforward, concise information that satisfies the requirements noted above. Expensive bindings, color displays, and the like are not necessary. Emphasis should be placed on brevity, conformity to instructions, requirements of this RFQ, as well as the completeness and clarity of content.

## **5.0 SELECTION PROCESS**

- 5.1. An evaluation panel of OCCM staff will review the submittals of the Statements of Qualifications. After this evaluation, a short-list of qualified firms will be established for the Project for clarification of the evaluation. OCCM Staff may contact previous Clients and Owners listed in Part 1 (F) of the Standard Form 330 to verify the experience and performance of the prospective Consultant, their key personnel, and their sub-consultants
- 5.2. AOC OCCM will notify all proposers of the short-list for the project; firms on the short-list will be notified of their interview time and place (Tentative interview date for the project is indicated on the project description, Attachment A); Only the Consultant's principal, project manager, project designer and/or project architect that are proposed to be assigned to this project will participate in the interview.
- 5.3. If a satisfactory contractual agreement on services and compensation cannot be reached between the AOC and the first selected Consultant within 30 calendar days of notification of selection, the AOC reserves the right to negotiate a contract for the project with the next qualified Consultant.
- 5.4. The Consultant selected for the project assignment under this RFQ will not be precluded from consideration nor given special status in any succeeding RFQs for Architectural and Engineering Services, issued by the AOC.
- 5.5. The AOC cannot guarantee the amount or duration of the work, nor which phases will be authorized for a particular project. Project descriptions are subject to change, up to the time a contract is executed, at the sole discretion of AOC OCCM. A Consultant selected by the AOC for a project will be retained for subsequent phases of that project, subject to the successful performance of services, appropriation of funds by the California Legislature, and pursuant to the AOC Agreement for Architectural and Engineering services.

## **6.0 RIGHTS**

- 6.1. The AOC reserves the right to reject any and all SOQs, in whole or in part, as well as the right to issue similar RFQs in the future. This RFQ is in no way an agreement, obligation, or contract and in no way is the AOC or the State of California responsible for the cost of preparing the associated SOQ. One copy of a submittal will be retained for official files.



- 6.2. Upon selection of the Consultant, the AOC reserves the right to approve the selection of other sub-consultants not requested in the RFQ, including but not limited to Cost, Civil, Landscape, Acoustical, Security, Lighting, AV/Telecommunications, and Interior Design.

## 7.0 EVALUATION OF SOQ

The AOC's OCCM, will evaluate Statements of Qualifications using the following criteria, each to be weighted as indicated:

POINTS	SELECTION CRITERIA
30	<p><b><u>Design Experience:</u></b></p> <ul style="list-style-type: none"> <li>-Experience of the proposed team and its key individuals in the development of high quality buildings for court or other similar program intensive public/institutional buildings during the past ten years (20 pts);</li> <li>-Experience of proposed team and its key individuals during the past ten years in the completion of public/institutional projects of similar size, complexity, and construction cost to the project described in Attachment A (10 pts);</li> </ul>
30	<p><b><u>Technical Expertise:</u></b></p> <ul style="list-style-type: none"> <li>-Prospective Consultant's record and systems for providing and maintaining high quality consulting services and design/contract documents to it clients;</li> </ul>
10	<p><b><u>Specialized Expertise:</u></b></p> <ul style="list-style-type: none"> <li>-Demonstrated experience and expertise of the proposed team with sustainable building/site design and LEED<sup>TM</sup> standards/process;</li> </ul>
30	<p><b><u>Project Management:</u></b></p> <ul style="list-style-type: none"> <li>-Demonstrated ability of Consultant to design buildings within strict cost budgets and time schedules (15 pts);</li> <li>-Ability of the Consultant to provide staff and resources necessary to develop and manage the project located in the geographical area noted (15 pts).</li> </ul>

## **8.0 ADDITIONAL REQUIREMENTS**

- 8.1 Submittals should be sent by registered mail, certified mail or by hand delivery. Incomplete submittals and/or submittals received after the deadline will be rejected without review.
- 8.2 Registered prospective Consultants may submit questions to the AOC via e-mail to [nadine.mcfadden@jud.ca.gov](mailto:nadine.mcfadden@jud.ca.gov) no later than 4 p.m. on Thursday, July 14, 2005. The AOC will post answers to all questions, any RFQ clarifications, and any RFQ addenda on its website <http://www.courtinfo.ca.gov/reference/rfp/>.
- 8.3 After evaluations of the SOQs, a short-list of top ranked Consultants in each Project Category will be posted on the AOC website.
- 8.4 Contact to the AOC shall be made only in writing and only through the email address noted above in 8.2; Telephone calls will not be accepted. Additionally, prospective Consultants and their sub-consultants are asked not to contact the Superior Court of Contra Costa County in regard to the project for this RFQ.

## **9.0 PROPOSED CONTRACT TERMS AND ADMINISTRATIVE RULES**

Contracts with successful Consultants will be signed by the parties on an AOC Standard Agreement form and will include terms appropriate for the project. A typical AOC Standard Agreement for architectural and engineering services on a conventional design-bid-build project assignment is available for review at <http://www.courtinfo.ca.gov/reference/rfp/>.

The AOC reserves the right to modify or update the Standard Agreement in the interest of the AOC, in whole or in part at any time up to the negotiation of a specific agreement of a project assignment.

Incorporated in this RFQ, and attached as Attachment B, is a document entitled “Administrative Rules Governing Statements of Qualifications.” Any consultants submitting an SOQ, by virtue of making its submission, agrees to that they will be bound by and shall comply with the provisions of Attachment B.

## **10.0 CONFIDENTIAL OR PROPRIETARY INFORMATION**

The Administrative Office of the Court's policy is to follow the intent of the California Public Records Act (PRA). If a prospective Consultant's SOQ contains material noted or marked as confidential and/or proprietary that, in the AOC's sole opinion, meets the disclosure exemption requirements of the PRA, then that information will not be disclosed pursuant to a request for public documents. If the AOC does not consider such material to be exempt from disclosure under the PRA, the material will be made available to the public, regardless of the notation or markings. If a prospective Consultant is unsure if its confidential and/or proprietary material meets the disclosure exemption requirements of the PRA, then it should not include such information in its proposal or SOQ.

## **11.0 DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION GOALS**

The State of California requires contract participation goals of a minimum of three percent (3%) for disabled veteran business enterprises (DVBEs). The AOC is subject to this participation goal. Upon selection of a Consultant for the project assignment under this RFQ, the AOC will require that the selected Consultant demonstrate DVBE compliance and complete a DVBE Compliance Form. If it would be impossible for the selected Consultant to comply, an explanation of why and demonstration of written evidence of a "good faith effort" to achieve participation would be required. Information about DVBE resources can be found on the Executive Branch's website at <http://www.dgs.ca.gov/default.htm>, or by calling the Office of Small Business and DVBE Certification at 916-375-4940.

*End of RFQ*

## ATTACHMENT A

<b>Project Title:</b>	County of Contra Costa – New Antioch Area Court
<b>Project Location:</b>	Antioch/Brentwood/Oakley/Pittsburg area of Contra Costa County
<b>Project No.:</b>	91-07-001
<b>Project Description:</b>	The project is envisioned as the construction of a new four courtroom courthouse of approximately 40,000 gross square feet. The program may expand to seven courtrooms. Site improvements will include approximately 160 minimum surface parking spaces, landscaping, and hardscaping. The site acreage and number of parking spaces required for site acquisition will be validated in a study underway by the AOC. Study shall include validation of the development direction and confirmation of program.
<b>Estimated Construction Cost:</b>	\$15,181,000 (4 courtrooms) (Estimate based on January 2005 construction costs for building, site infrastructure, and site development)
<b>Schedule by Phase:</b>	Estimated Start of Services: no earlier than Fall 2005
Pre-Schematic/Study	Not in Contract
Land Acquisition	Subject to funding of FY 2005-06 State Budget Act
Preliminary Plans	Schematic Design and Design Development; Subject to funding of FY 2005-06 State Budget Act
Working Drawings	Subject to future funding
Construction	Subject to future funding
<b>Current Funding:</b>	Fiscal year 2005-06 for Acquisition Phase and Preliminary Plans Phase (Authorization for services is subject to passage of FY 05-06 State Budget Act)
<b>Tentative Interview Dates:</b>	August 2005
<b>Interview Location:</b>	Administrative Office of the Courts 455 Golden Gate Avenue Judicial Council Conference Center, 3rd Floor San Francisco, CA 94102-3688

*End of Attachment A*

## **ATTACHMENT B**

### **JUDICIAL COUNCIL OF CALIFORNIA ADMINISTRATIVE OFFICE OF THE COURTS**

#### **ADMINISTRATIVE RULES GOVERNING REQUESTS FOR SOQs**

##### **A. General**

1. This solicitation document, the evaluation of SOQs, and the award of any contract shall conform with current competitive solicitation procedures as they relate to the procurement of goods and services.
2. In addition to explaining the Administrative Office of the Court's (AOC's) requirements, the solicitation document includes instructions which prescribe the format and content of SOQs.

##### **B. Errors in the solicitation document**

1. If a prospective consultant submitting a SOQ discovers any ambiguity, conflict, discrepancy, omission, or other error in this solicitation document, the prospective consultant shall immediately provide the AOC with written notice of the problem and request that the solicitation document be clarified or modified. Without disclosing the source of the request, the AOC may modify the solicitation document prior to the date fixed for submission of SOQ by issuing an addendum to all prospective consultants to whom the solicitation document was sent.
2. If prior to the date fixed for submission of SOQs a prospective consultant submitting a SOQ knows of or should have known of an error in the solicitation document but fails to notify the AOC of the error, the prospective consultant shall bid at its own risk, and if the prospective consultant is awarded the contract, it shall not be entitled to additional compensation or time by reason of the error or its later correction.

##### **C. Questions regarding the solicitation document**

1. If a prospective consultant's question relates to a proprietary aspect of its SOQ and the question would expose proprietary information if disclosed to competitors, the prospective consultant may submit the question in writing, conspicuously marking it as "CONFIDENTIAL." With the question, the prospective consultant must submit a statement explaining why the question is sensitive. If the AOC concurs that the disclosure of the question or answer would expose proprietary information, the question will be answered, and both

the question and answer will be kept in confidence. If the AOC does not concur regarding the proprietary nature of the question, the question will not be answered in this manner and the prospective consultant will be notified.

2. If a prospective consultant submitting a SOQ believes that one or more of the solicitation document's requirements is onerous or unfair, or that it unnecessarily precludes less costly or alternative solutions, the prospective consultant may submit a written request that the solicitation document be changed. The request must set forth the recommended change and prospective consultant's reasons for proposing the change. Any such request must be submitted to Nadine McFadden at the AOC by the SOQ due date and time listed on the cover letter of this RFQ.

#### **D. Addenda**

1. The AOC may modify the solicitation document prior to the date fixed for submission of SOQs by posting an addendum to this RFQ. If any prospective consultant determines that an addendum unnecessarily restricts its ability to submit, it must notify Nadine McFadden at the AOC no later than one day following the receipt of the addendum.

#### **E. Withdrawal and resubmission/modification of SOQ**

1. A prospective consultant may withdraw its SOQ at any time prior to the deadline for submitting SOQs by notifying the AOC in writing of its withdrawal. The notice must be signed by the prospective consultant. The prospective consultant may thereafter submit a new or modified SOQ, provided that it is received at the AOC no later than the SOQ due date and time listed on the cover letter of this RFQ. Modifications offered in any other manner, oral or written, will not be considered. SOQs cannot be changed or withdrawn after the SOQ due date and time listed on the coversheet of this RFQ.

#### **F. Evaluation process**

1. An evaluation team will review in detail all SOQs that are received to determine the extent to which they comply with solicitation document requirements.
2. If a SOQ fails to meet a material solicitation document requirement, the SOQ may be rejected. A deviation is material to the extent that a response is not in substantial accord with solicitation document requirements. Material deviations cannot be waived. Immaterial deviations may cause an SOQ to be rejected.

3. SOQs that contain false or misleading statements may be rejected if in the AOC's opinion the information was intended to mislead the state regarding a requirement of the solicitation document.
4. During the evaluation process, the AOC may require a prospective consultant's representative to answer questions with regard to the prospective consultant's SOQ. Failure of a prospective consultant to demonstrate that the claims made in its SOQ are in fact true may be sufficient cause for deeming a SOQ nonresponsive.

**G. Rejection of solicitations**

1. The AOC may reject any or all SOQs and may or may not waive an immaterial deviation or defect in a bid. The AOC's waiver of an immaterial deviation or defect shall in no way modify the solicitation document or excuse a prospective consultant from full compliance with solicitation document specifications. The AOC reserves the right to accept or reject any or all of the items in the SOQ, to award a contract in whole or in part and/or negotiate any or all items with individual prospective consultants if it is deemed in the AOC's best interest. Moreover, the AOC reserves the right to make no selection if SOQs are deemed to be outside the fiscal constraint or against the best interest of the State of California.

**H. Award of contract**

1. Award of contract, if made, will be in accordance with the solicitation document to a responsible prospective consultant submitting a SOQ compliant with all the requirements of the solicitation document and any addenda thereto, except for such immaterial defects as may be waived by the AOC.
2. The AOC reserves the right to determine the suitability of SOQs for contracts on the basis of a SOQ meeting administrative requirements, technical requirements, its assessment of the quality of service proposed.

**I. Decision**

1. Questions regarding the AOC's award of any business on the basis of SOQs submitted in response to this solicitation document, or on any related matter, should be addressed to Nadine McFadden at the AOC who will forward the matter to the appropriate contracting officer.

**J. Execution of contracts**

1. The AOC will make a reasonable effort to execute any contract based on this solicitation document within 30 days of selecting a SOQ that best meets its requirements. However, exceptions taken by a prospective consultant may delay execution of a contract

2. A prospective consultant submitting a SOQ must be prepared to use a standard state contract form rather than its own contract form.

## **K. Protest procedure**

### 1. General

Failure of a prospective consultant to comply with the protest procedures set forth in this Section K, will render a protest inadequate and non-responsive, and will result in rejection of the protest.

### 2. Prior to Submission of SOQ

An interested party that is an actual or prospective consultant with a direct economic interest in the procurement may file a protest based on allegedly restrictive or defective improprieties in the solicitation process that are apparent, or should have been reasonably discovered prior to the submission of a SOQ. Such protest must be received prior to the SOQ Closing Time. The protestor shall have exhausted all administrative remedies discussed in this Attachment B prior to submitting the protest. Failure to do so may be grounds for denying the protest.

### 3. After Award

A prospective consultant submitting a SOQ may protest the award based on allegations of improprieties occurring during the SOQ evaluation or award period if it meets all of the following conditions:

- a. The prospective consultant has submitted a SOQ that it believes to be responsive to the solicitation document;
- b. The prospective consultant believes that its SOQ meets the administrative and technical requirements of the solicitation and proposes services of proven quality and performance; and,
- c. The prospective consultant believes that the AOC has incorrectly selected another prospective consultant submitting a SOQ for an award.

Protests must be received no later than five (5) business days after the protesting party receives a Non-Award letter.

### 4. Form of Protest

A prospective consultant who is qualified to protest should submit the protest to Nadine McFadden at the AOC, who will forward the matter to the appropriate Contracting Officer.



- a. The protest must be in writing and sent by certified, or registered mail, or overnight delivery service (with proof of delivery), or delivered personally to the address noted above. If the protest is hand-delivered, a receipt must be requested.
- b. The protest shall include the name, address, telephone and facsimile numbers, and email address of the party protesting or their representative.
- c. The title of the solicitation document under which the protest is submitted shall be included.
- d. A detailed description of the specific legal and factual grounds of protest and any supporting documentation shall be included.
- e. The specific ruling or relief requested must be stated.

The AOC, at its discretion, may make a decision regarding the protest without requesting further information or documents from the protestor. Therefore, the initial protest submittal must include all grounds for the protest and all evidence available at the time the protest is submitted. If the protestor later raises new grounds or evidence that was not included in the initial protest but which could have been raised at that time, the AOC will not consider such new grounds or new evidence.

5. Determination of Protest Submitted Prior to Submission of SOQ

Upon receipt of a timely and proper protest based on allegedly restrictive or defective specifications or other improprieties in the solicitation process that are apparent, or should have been reasonably discovered prior to the submission of a SOQ, the AOC will provide a written determination to the protestor prior to the SOQ Due Date. If required, the AOC may extend the SOQ Due Date to allow for a reasonable time to review the protest. If the protesting party elects to appeal the decision, the protesting party will follow the appeals process outlined below and the AOC, at its sole discretion, may elect to withhold the contract award until the protest is resolved or denied or proceed with the award and implementation of the contract.

6. Determination of Protest Submitted After Submission of SOQ

Upon receipt of a timely and proper protest, the AOC will investigate the protest and will provide a written response to the prospective consultant within a reasonable time. If the AOC requires additional time to review the protest and is not able to provide a response within ten (10) business days, the AOC will notify the prospective consultant. If the protesting party elects to appeal the decision, the protesting party will follow the appeals process outlined below. The AOC, at its sole discretion, may elect to withhold the contract award until the protest is resolved or denied or proceed with the award and implementation of the agreement.

## 7. Appeals Process

The Contracting Officer's decision shall be considered the final action by the AOC unless the protesting party thereafter seeks an appeal of the decision by filing a request for appeal with the AOC's Business Services Manager, at the same address noted in the Submission of SOQ section of the coversheet of this RFQ, within five (5) calendar days of the issuance of the Contracting Officer's decision.

The justification for appeal is specifically limited to:

- a. Facts and/or information related to the protest, as previously submitted, that were not available at the time the protest was originally submitted;
- b. The Contracting Officer's decision contained errors of fact, and that such errors of fact were significant and material factors in the Contracting Officer's decision; or
- c. The decision of the Contracting Officer was in error of law or regulation.

The prospective consultant's request for appeal shall include:

- a. The name, address telephone and facsimile numbers, and email address of the prospective consultant filing the appeal or their representative;
- b. A copy of the Contracting Officer's decision;
- c. The legal and factual basis for the appeal; and
- d. The ruling or relief requested. Issues that could have been raised earlier will not be considered on appeal.

Upon receipt of a request for appeal, the AOC's Business Services Manager will review the request and the decision of the Contracting Officer and shall issue a final determination. The decision of the AOC's Business Services Manager shall constitute the final action of the AOC.

## 8. Protest Remedies

If the protest is upheld, the AOC will consider all circumstances surrounding the procurement in its decision for a fair and reasonable remedy, including the seriousness of the procurement deficiency, the degree of prejudice to the protesting party or to the integrity of the competitive procurement system, the good faith efforts of the parties, the extent of performance, the cost to the AOC, the urgency of the procurement, and the impact of the recommendation(s) on the AOC. The AOC may recommend any combination of the following remedies:

- a. Terminate the contract for convenience;
- b. Re-solicit the requirement;

- c. Issue a new solicitation;
- d. Refrain from exercising options to extend the term under the contract, if applicable;
- e. Award a contract consistent with statute or regulation; or
- f. Other such remedies as may be required to promote compliance.

**L. News releases**

- 1. News releases pertaining to the award of a contract may not be made without prior written approval of the AOC's Business Services Manager.

**M. Disposition of materials**

- 1. All materials submitted in response to this solicitation document will become the property of the State of California and will be returned only at the AOC's option and at the expense of the prospective consultant submitting the SOQ. One copy of a submitted SOQ will be retained for official files and become a public record. Any material that a prospective consultant considers as confidential but does not meet the disclosure exemption requirements of the California Public Records Act should not be included in the prospective consultant's SOQ as it may be made available to the public.

**N. Payment**

- 1. Payment terms will be specified in any agreement that may ensue as a result of this solicitation document.
- 2. **THE STATE DOES NOT MAKE ANY ADVANCE PAYMENT FOR SERVICES.** Payment is normally made based upon completion of tasks as provide in the agreement between the AOC and the selected prospective consultant. The AOC may withhold ten percent of each invoice until receipt and acceptance of the final product. The amount of the withhold may depend upon the length of the project and the payment schedule provide in the agreement between the AOC and the selected prospective consultant.

*End of Attachment B*