



REQUEST FOR QUALIFICATIONS AND PROPOSALS FOR PRECONSTRUCTION SERVICES AND CONSTRUCTION MANAGER AT RISK SERVICES WITH A GUARANTEED MAXIMUM PRICE

New El Centro Courthouse
Superior Court of California,
County of Imperial

The Judicial Council of California (Judicial Council) seeks statements of qualifications and proposals from Construction Manager at Risk firms qualified to provide services in all phases of design and construction of the new El Centro courthouse for the Superior Court of California, County of Imperial.

RFQ/P FSO-2018-22-JP



**JUDICIAL COUNCIL
OF CALIFORNIA**

OPERATIONS AND PROGRAMS DIVISION

Date: October 12, 2018

To:

Interested Construction Management at Risk Firms

From:

Judicial Council of California,
Facilities Services

Project Title: New El Centro Courthouse
RFQ/P Number: RFQ/P-FSO-2018-22-JP

Send SOQs and Proposals To:

Judicial Council of California
Attn: Ms. Lenore Fraga-Roberts
Branch Accounting and Procurement, 6th Floor
455 Golden Gate Avenue
San Francisco, CA 94102
*(Indicate RFQ/P number and project name on
lower left corner of envelopes)*

Contact:

CapitalProgramSolicitations@jud.ca.gov

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The Project Drawings, including Working drawings and specifications, are available on request to Firms that intend to respond to this RFQ/P. Firms that intend to respond to this RFQ/P may request a copy of the Project Drawings by sending an email to the Judicial Council via capitalprogramsolicitations@jud.ca.gov, with the RFQ/P number and Request for Drawings in the subject line. Firm’s Request for Drawings should include the name, address, telephone, fax number, email address and contact person for the Firm.

1.0 Introduction

- a. This Request for Qualifications and Proposals (“RFQ/P”) is the means for interested construction manager at risk firms (“Firm(s)”) or (“CMR”) to submit their Statements of Qualifications (“SOQ”) and Fee Proposals (“Proposal(s)”) to the Judicial Council for the services described herein. The RFQ/P and all related documents and addenda are available in electronic form at www.courts.ca.gov.
- b. The Judicial Council, chaired by the Chief Justice of California, is the primary policy making body of the California judicial system. The Facilities Services is the division of the Judicial Council responsible for the planning, design, construction, real estate and asset management of facilities for the Superior and Appellate Courts of California.

2.0 Purpose of RFQ/P

- a. The Judicial Council seeks to retain the services of a qualified Firm with expertise in all Phases of the above referenced project (“Project”) as described herein and in the Contract Documents. The Project phases are the Preconstruction (Subcontractor bidding) and the Construction Phase. The Judicial Council hereby solicits SOQs and Proposals to furnish Preconstruction Services and Construction Management Services for the Project, subject to the conditions prescribed by this RFQ/P.
- b. The selected Firm will apply its expertise to the Project in collaboration with other Project participants to construct a court building that provides significant value to the State judicial system.
- c. The Judicial Council intends to award the Project and issue a Notice to Proceed in a timely manner following the selection process indicated herein.

3.0 Project Description and Site Information

a. Project Description

- i. The New El Centro Courthouse will be a 47,680 gross square feet two story building. The Project is the construction of a new building and site development for a trial court facility comprised of Four (4) courtrooms, for Six (6) judges and support staff, approximately limited to all building structure, enclosure, interior improvements, mechanical, electrical, telecommunication, audio visual, and security systems. The project also includes approximately one hundred and thirty- two (132) public surface, juror and staff parking, including seven (7) secure parking spaces for judges.
- ii. The 3.57 acre site development includes but is not limited to site preparation, underground utilities, landscape, hardscape, vehicular drives, surface parking, security barriers, fencing, and gates.
- iii. The Project will be insured under an owner controlled insurance program (OCIP) provided by the Judicial Council. A **sample** OCIP manual is included as Attachment 6 to this RFQ/P. CMRs should base their responses to this RFQ/P based on that document. The requirements of the OCIP will include specific requirements related to Subcontractor experience, safety requirements, and related items. The actual OCIP that the Judicial Council implements may vary from the attached sample. If the CMR determines that the actual OCIP has a cost impact to the CMR and if the CMR can document that impact to the Judicial Council’s reasonable satisfaction, the Judicial Council will adjust the CMR’s general conditions accordingly prior to finalizing the GMP.
- iv. **LEED.** The Project is being designed for sustainability and to the standards of LEED Silver rating including full participation in the formal LEED certification process. CMR shall provide all required documentation to the Project Architect for LEED certification from the Construction Phase.
- v. **Commissioning.** CMR shall perform specific Services during all Phases of the Project to assist, review, coordinate, opine and cooperate with the Judicial Council, the Judicial Council’s commissioning authority, other providers of commissioning services for the Judicial Council, the Architect and all other design professional of the Project.

- vi. A detailed description of the Project is set forth in the CMR Agreement form attached hereto, including descriptions of the scope of Work for each Phase of the Project.
- vii. **Project Labor Agreement.** Prior to the commencement of construction for the Project, the CMR shall enter into a project labor agreement for this Project with the applicable county trades council where this Project is located.

viii. Payment of Prevailing Wages.

- The CMR and all Subcontractors under the CMR shall pay all workers on Work performed pursuant to this Agreement not less than the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work as determined by the Director of the Department of Industrial Relations, State of California, for the type of work performed and the locality in which the work is to be performed, pursuant to sections 1770 et seq. of the California Labor Code. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Agreement, as determined by Director of the State of California Department of Industrial Relations, are on file at the Judicial Council’s principal office. Prevailing wage rates are also available from the Department of Industrial Relations or on the internet at (<http://www.dir.ca.gov/oprl/DPreWageDetermination.htm>). If it becomes necessary to employ a craft, classification or type of worker other than those listed on the internet at <http://www.dir.ca.gov/oprl/DPreWageDetermination.htm>, the CMR shall contact the Division of Labor Statistics and Research to find the appropriate prevailing wage determination. If the Division of Labor Statistics and Research is unable to identify a determination that is applicable, the Contractor shall notify the Judicial Council immediately, and the Judicial Council will request a special determination from the Division of Labor Statistics and Research. The rate thus determined shall be applicable from the commencement of the Project.
- Contractor shall comply with the registration and compliance monitoring provisions of Labor Code section 1771.4, including furnishing its certified payroll records to the Labor Commissioner of California and complying with any applicable enforcement by the Department of Industrial Relations. Labor Code section 1771.1(a) states the following:

“A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to section 1725.5 at the time the contract is awarded.”
- CMR shall, and shall ensure that all “subcontractors” (as defined by Labor Code section 1722.1), comply with Labor Code section 1725.5, including without limitation the registration requirements with the Department of Industrial Relations that are set forth in Labor Code section 1725.5. CMR represents to the Judicial Council that all “subcontractors” (as defined by Labor Code section 1722.1) are registered pursuant to Labor Code section 1725.5. CMR acknowledges that, for purposes of Labor Code section 1725.5, this work is a public work to which Labor Code section 1771 applies.
- The Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. CMR shall post job site notices, as prescribed by regulation. CMR shall comply with all requirements of Labor Code section 1771.4, except the requirements that are exempted by the Labor Commissioner for the Project.

- b. **Estimated Schedule of Work:** Estimated Project start and completion dates are set forth below and include time for the Judicial Council and regulatory reviews or approvals. Actual dates for each phase of the Work will be detailed in the final CMR Agreement. The “Contract Time” is as defined in the Contract Documents. There is one Contract Time for the Working Drawings Phase and one Contract Time for the Construction Phase. Except for the uses of the term “Contract Time” that are clearly attributable to just one Phase, Contract Time is applicable to all Phases. CMR

should base its Proposal on the durations set forth herein below. Any adjustments to these durations may, at the Judicial Council’s discretion, be revised during the Working Drawings Phase; any changes to the Contract Time duration for the Construction Phase may result in an equitable adjustment to the CMR’s Fee and/or General Conditions costs, at the Judicial Council’s discretion, at the time the GMP is finalized.

Phase	Contract Time for Phase
Construction Phase	762 Calendar Days

The anticipated start dates for each Phase are as follows:

- i. **GMP – 1 (Underground Package)**
 1. **Working Drawings Phase (including bidding) [REVISED]**
 - a. **Bidding start:** **October 26, 2018**
 - b. **Bids due** **November 16, 2018**
 - c. **GMP Submittal to Judicial Council** **November 21, 2018**
 - d. **NTP issued to Contractor :** **December 2018**
 2. **Construction Phase**
 - a. Estimated start date of Construction: December 2018
 - b. Estimated completion date of Construction: March 2019
- ii. **GMP-II (Remaining Package)**
 1. **Working Drawings Phase (including bidding) [REVISED]**
 - a. **Bidding start:** **October 26, 2018**
 - b. **Bids due** **January 4, 2018**
 - c. **GMP Submittal to Judicial Council** **January 16, 2019**
 - d. **NTP issued to Contractor :** **February 2018**
 2. **Construction Phase**
 - a. Estimated start date of Construction: March 2019
 - b. Estimated completion date of Construction: January 2021

4.0 Pricing

- a. The Judicial Council’s current estimates for the Direct Cost of the Work without FF&E is \$ 30,991,514.00 , and the Direct Cost of FF&E is \$ 2,043,016.00 , neither of which includes the CMR’s profit, overhead or general conditions.
 - i. The Direct Cost of the Work for this Project **includes** all cable, trays and lines for the backbone of the telecommunications, data and audio-visual systems.
 - ii. **FF&E.** Except for the listed equipment and items indicated in the Contract Documents (“CMR-Procured Equipment”) and the FF&E Option if chosen by the Judicial Council, the CMR is **not** responsible to assist in the procurement, construction or installation of fixtures, furnishings, or equipment. The Judicial will procure, construct and install those items through other means with the exception of the CMR-Procured Equipment which will remain the responsibility of the CMR.

In addition, as part of its proposal, each Firm will provide pricing for the FF&E Option (See Exhibit B, Part A to the CMR Agreement, which is Attachment 1 to the RFQ). If the Judicial Council chooses the FF&E Option, then the CMR will perform all services to solicit bids or proposals, procure, construct and install the furniture, fixtures and equipment that are indicated in the FF&E Option.

Notwithstanding anything to the contrary, the CMR will be responsible to coordinate its efforts with the

Judicial Council’s efforts during the installation, construction, powering and commissioning of all furniture, fixtures and equipment, including all items purchased by the Judicial Council, the CMR-Procured Equipment and all items within the FF&E Options, if applicable.

- b. The Project includes both pre-construction services and construction services.
 - i. **Pre-construction Services.** The Subcontractor bidding for this Project shall be a fixed price proposal, included in this CMR’s general conditions.
 - ii. **Construction Services.** The procurement method for the Construction Phase of this Project is commonly known as “Construction Manager at Risk with Guaranteed Maximum Price.”
- c. Proposals must include pricing for all Phases of the Project, as indicated in the Fee Proposal.

5.0 Response to RFQ/P

- a. SOQs and Proposals must conform to the Judicial Council of California requirements provided herein.
- b. Interested Firms must hold and maintain a valid **Class B General Contractor license** from the State of California. Firm shall notify the Judicial Council in writing in the event Firm’s license expires, is suspended or has a change in signatory authority.
- c. The Judicial Council will contract with one Firm and that Firm may **not** self-perform construction work or bid on subcontractor bid packages except as indicated herein.
- d. In order to be considered, SOQs and Proposals must be submitted to the Judicial Council in written form, no later than the time and date indicated in “SOQ & Proposal Due Date and Time” set forth in the Schedule of Events below. Firms must ensure compliance with the dates, times and processes set forth in the Schedule of Events.

Schedule of Events

No.	Events	Dates (Calif. Times)
1	Pre-Proposal Teleconference. Telephone participants dial: 1-877-820-7831 Participant code: 678586	Thursday October 4, 2018 3:30 PM to 4:30 PM
2	Deadline for submission of Firm’s requests for clarifications re: the RFQ/P and non-binding email of intent to respond	Tuesday October 9, 2018
3	Clarifications, modifications and answers to questions posted at www.courts.ca.gov . (<i>estimate only</i>)	Thursday October 11, 2018
4	SOQ and Proposal Due Date and Time	Wednesday October 17, 2018 ”no later” than 5PM (PST)
5	Short listed Firms posted on www.courts.ca.gov . (<i>estimate only</i>)	Friday October 19, 2018
6	Interviews of short listed Firms at the Judicial Council San Francisco office. (<i>estimate only</i>)	Tuesday October 23, 2018
7	Posting of intent to award on www.courts.ca.gov . (<i>estimate only</i>)	Friday October 26, 2018

- e. SOQs and Proposals must be received by the:

Judicial Council of California
 Attn: Lenore Fraga-Roberts
 455 Golden Gate Avenue, 6th Floor
 San Francisco, CA 94102

SOQs and Proposals submitted via email will NOT be considered.

- f. Firms assume all risk for ensuring receipt no later than the date and time specified in the Schedule of Events. The Judicial Council is not responsible for the failure of a Firm's choice of delivery service/method. The Judicial Council will not open and will return any SOQ and Proposal received after the date and time specified in the Schedule of Events.
- g. **Changes to Process for Submitting SOQ and Proposal and Schedule of Events.** The RFQ/P and Schedule of Events are subject to change. The Judicial Council does not send notifications of changes to this RFQ/P or the Schedule of Events to prospective Firms. The Judicial Council is not responsible for failure of any Firm to receive notification of changes in a timely manner. Firms are advised to visit the Judicial Council website (www.courts.ca.gov) frequently to check for changes and updates to the RFQ/P and the Schedule of Events.
- h. **Pre-Submittal Actions and Events.** Firms shall submit the following according to the specified timelines in order to participate in this process.
- i. **Optional: Submit Questions Prior to the Pre-Proposal Teleconference**
- a. Firms may submit questions to be answered at the Pre-Proposal Teleconference on the Form for Submission of Questions (Question Form) that is posted as Attachment 2 to the RFQ/P. The Question Form must be emailed to: capitalprogramsolicitations@jud.ca.gov and include the following e-mail subject line: "CMR: RFQ/P-FSO-2018-22-JP Questions + (Firm Name)".
- b. Please complete all sections of the Question Form. Firms should specifically identify and cite to the particular section of the RFQ/P about which the Firm has questions. Firms' questions should be limited to the RFQ/P process and general questions regarding the overall nature of the Project. Highly specific questions regarding the Project should be withheld until after the Pre-Proposal Teleconference.
- c. Please take notice that the Firm's name may appear on the Judicial Council website when answers to questions submitted are posted. The Judicial Council will post answers to questions submitted as indicated in the Schedule of Events.
- ii. **Optional: Participate by Phone in the Pre-Proposal Teleconference**
- During the Pre-Proposal Teleconference, the Judicial Council will provide an overview of the Project, introduce key Judicial Council personnel, and briefly answer questions submitted prior to the Pre-Proposal Teleconference. If time allows, other questions may be asked and answered. Note: Although questions may be discussed during the Pre-Proposal Teleconference, the official and binding responses will be the ones posted to the Judicial Council website.
- iii. **Optional: Submit Questions After the Pre-Proposal Teleconference**
- Firms may submit questions after the Pre-Proposal Teleconference and prior to submission of its SOQ and Proposal using the Question Form process indicated above. Judicial Council's response to these questions will be posted to the Judicial Council website.
- iv. **Optional: Send Email Intent to Respond**
- Firms that intend to respond to this RFQ/P may notify the Judicial Council by sending an email to capitalprogramsolicitations@jud.ca.gov with the RFQ/P number and Firm name in the subject line. Firm's Intent to Respond should include the name, address, telephone, fax number, and e-mail address and contact person for the Firm.
- Firms are strongly encouraged to submit an Intent to Respond in order to assist the Judicial Council in managing the RFQ/P process.

6.0 Preparing and Packaging SOQ and Proposal

- a. SOQs and Proposals should provide straightforward and concise information that fulfill the requirements of the RFQ/P. Emphasis should be placed on brevity, conformity to the Judicial Council’s instructions, RFQ/P selection criteria, and completeness and clarity of content.
- b. SOQs should be organized using the tab sections as indicated below.
- c. Expensive binding or elaborate displays are discouraged.
- d. Attachments, except as noted, will not be accepted.
- e. Firm shall submit the following in a sealed envelope clearly marked, “**SOQ & PROPOSAL – Firm Name, Project Name, RFQ/P Number**”:
 - i. One (1) copy in paper form, of the Firm’s Cover Letter and SOQ;
 - ii. One (1) copy, in paper form, of Firm’s Price Proposal in a separately sealed smaller envelope clearly marked “**PRICE PROPOSAL – Firm name, Project Name, RFQ/P Number**”;
 - iii. One (1) original of the **Payee Data Record** form completed in the exact legal name of the Firm’s business, signed by an authorized representative of the Firm (Do not bind Payee Data Record form into the SOQ booklet); and
 - iv. One (1) USB or flash drive containing the Firm’s complete SOQ, Price Proposal and Payee Data Record form.

f. **SOQ Form:**

- i. **GSA Standard Form 330.** The Judicial Council requires all Firms to utilize the federal General Services Administration’s (GSA) Standard Form 330 (“Architect-Engineer Qualifications”) as the basis for its SOQ.
 - a. Form 330 may be obtained at: <http://www.gsa.gov/portal/forms/type/TOP>.
 - b. Please take note that there are additional requirements and information required from each Firm in addition to the requirements of Form 330.
- ii. One (1) copy in paper form (no bindings) of the SOQ and one (1) electronic copy of the SOQ included on the USB or flash drive, divided into tab sections with the following:

Tab 1. Cover Letter

- Indicate your Firm’s ability to begin work in the Pre-construction Services ; See 4.b.i
- Confirm that your Firm read and understands the requirements of RFQ/P and agrees to all terms stated in the CMR Agreement;
- State your Firm’s legal name, address, telephone, fax numbers, and federal tax identification number (or social security number if the organization is a sole proprietorship); and
- State the name, telephone, fax, address, and e-mail address of Firm’s designated representative and, if different, the Firm’s contact who will liaise with the Judicial Council in contractual matters.

Tab 2. Form 330 Part I (A-D): Firm Identification

Provide the information required by Form 330 Part 1, Sections A through D. Not to exceed one (1) page per Firm identified.

Tab 3. Form 330 Part I (E): Resumes of Key Personnel

Provide the information required by Form 330 Part 1, Section E.

Tab 4. Form 330 Part I (F): Example Projects

Provide example projects that best illustrate the Firm’s qualifications for this RFQ/P (i.e. references) pursuant to Form 330 Part 1, Section F.

- The Firm is required to list **ALL** projects the Firm has performed during the past **five (5)** years, in chronological order, with the most recently completed project listed first. Limit this list to no more than the thirty (30) **most recent** projects.
- Include the following information for each example project listed. Do not exceed two (2) pages per example project. In addition, Firm may include one (1) page of photographs and graphics.
 - (a) Name of example project and location;
 - (b) Owner of example project;
 - (c) Total value of construction (include contract award amount and total change orders);
 - (d) Completion date;
 - (e) Owner reference (include name, current phone no., and fax no.); Names and references must be current and verifiable and
 - (f) Project description, including type of project.
 - (g) A separate section indicating if the project satisfies one of the “Additional Project Information” categories below (“**Preconstruction Services**”, and/or “**CMR Project**”, and/or “**Similar Project**”)
- **Additional Project Information.** For the above projects, indicate which satisfy the following requirements and provide the requested information in that section of the Project information.
 - **Preconstruction Services.** Indicate at least two (2) of the projects for which Firm provided pre-construction services and then constructed the project. For these projects, demonstrate experience in value engineering; construction estimating; and constructability review during the design phase; and delineating subcontractor scopes of work with no overlap or scope gaps between bid packages.
 - **CMR Projects.** Indicate at least two (2) of the projects that demonstrate the Firm’s key individuals’ ability to act as a CMR with a GMP; soliciting bids; and contracting with and managing multiple subcontractors consistent with the type, size and complexity of this Project. Include samples of pre-bid and post-construction schedules prepared by Firm for those projects.
 - **Similar Projects (Public or Private).** Indicate which of the projects were for buildings of similar complexity and budget and demonstrate Firm’s ability and experience to successfully plan and complete the project. (e.g., court facility, jail/corrections facility, public/private hospital or healthcare facility, education facility, etc.).

Tab 5. 330 Part I (G): Key Personnel

Provide the information required by Form 330 Part 1, Section G. Do not exceed one (1) page.

Tab 6. 330 Part I (H): Additional Information: Proposed Approach

Provide a Project Plan for performing the services and activities required for the Project. The Project Plan must not exceed ten (10) pages and must be signed by an authorized representative of the Firm. The Firm must provide information on its proposed approach to the Project, including, Firm’s strategies for feasibility studies, Project planning, quality control, anticipation and resolution of issues throughout the Project, Firm’s methodology for coordination and issue tracking, as well as any other information the Firm feels is pertinent. Firm should indicate their approach to getting trade-level review of construction documents, and show examples of between-trade coordination efforts undertaken. A Firm’s use of BIM and the level of detail used in that coordination method are of interest to the Judicial Council. Firm should include examples of successfully meeting tight construction schedules and recovery schedules. Indicate approach to managing sub-contractors. Firm should indicate methodology used and give examples of coordination, testing, commissioning and acceptance of fire-suppression / smoke control as well as low-voltage systems.

Tab 7. 330 Part II: General Qualifications

Provide the information required by Form 330 Part 11. Items 4, 5(b), 8(c) and 11 are not required. The Firm’s authorized representative must verify and sign the information required by this Part.

Tab 8. Technical Qualifications Questionnaire

Provide a completed Technical Qualifications Questionnaire (Attachment 3) bearing an original signature from an individual with a level of authority qualified to commit your Firm.

Tab 9. Supporting Documentation: Safety Record

Provide a description of Firm’s Safety Plan, Project safety and security program and a description of the Firm’s ability to comply with the safety requirements of the CMR Agreement. The Judicial Council’s review of this information and documentation in no way is a determination by the Judicial Council that this information and documentation is complete, sufficient, or appropriate, which shall always remain the CMR’s obligation. Also provide the Firm’s current Workers’ Compensation experience modification.

Tab 10. Supporting Documentation: Litigation History

Provide a list of Firm’s litigation(s) and resolution(s) within the past five (5) years. Include dispute(s) that were or were not resolved through mediation and/or arbitration.

Tab 11. Certifications

Certify and confirm, under penalty of perjury, the following:

- **NLRB Orders.** That no more than one (1) final, unappealable finding of contempt of court by a federal court has been issued against Firm within the immediately preceding two (2) year period because of Firm’s failure to comply with an order of the National Labor Relations Board.
- **Brokerage or Contingent Fees.** No person or selling agency has been employed or retained to solicit or secure an agreement between Firm and the Judicial Council upon an understanding or agreement for a commission, percentage, brokerage or contingent fee.
- **Prohibited Financial Conflict of Interest.** Firm has no interest and shall not acquire any interest which would present a conflict of interest with the Judicial Council pursuant to California Government Code sections 1090 *et seq.* and 87100 *et seq.* Firm further certifies that, to the best of its knowledge after due inquiry, no employees or agents of the Judicial Council are now, nor in the future will they be, in any manner interested directly or indirectly in the CMR Agreement, or in any profits expected to arise from CMR Agreement, as set forth in California Government Code sections 1090 *et seq.* and 87100 *et seq.*
- **Covenant against Gratuities.** No gratuities, in the form of entertainment, gifts, or otherwise, were offered by Firm or any agent, director, or representative of Firm, to any officer, official, agent, or employee of the Judicial Council with a view toward securing the CMR Agreement or securing favorable treatment with respect to any determinations concerning the performance of the CMR Agreement.

Tab 12. Outreach

Provide information about your Firm’s plan to advertise and perform outreach to encourage participation of local subcontractors and vendors, and State certified disabled veteran business enterprises on the Project, including the CMR’s bids from qualified subcontractors.

Tab 13. General Contractor License

Provide a copy of Firm’s Type B general contractor license permitting Firm to perform construction work in the State of California.

Tab 14. Financial Information

Provide one original (preferred) or copy of Firm’s audited and already published financial statements for three (3) annual periods preceding the SOQ & Proposal Due Date. The statements shall be the Firm’s and in the same legal name as that in which Firm intends to do business with the Judicial Council. The statements shall not be in the name of parent organizations. Do not include other subsidiaries.

7.0 Judicial Council Selection Process [REVISED]

It is the intention of Judicial Council that its selection of a Firm to provide construction management at risk services for

this Project shall take into consideration both the quality of the Firm, as demonstrated by their competence and experience and by the cost proposed to provide services. The Judicial Council reserves the right to consider and evaluate similar projects that the Firm has performed and the experience of Key Personnel while working with other contractors.

a. **SOQ and Proposal Evaluation Process [REVISED]**

The evaluation team will first evaluate Firm's SOQ to determine its responsiveness to the first four (4) criteria below and the Judicial Council's expressed needs, and will then set an initial score for its Total Quality Points. The Total Quality Points will be factored into a formula that computes the Cost per Unit of Quality. **The top ranked Firm with the lowest Cost per Unit of Quality will be selected to proceed to the Guaranteed Maximum Price (GMP) phase of the Project.**

- i. **SOQ Evaluation Process:** Firm's SOQ will be analyzed and scored based on the first four (4) criteria below by members of an evaluation team, which will be comprised of Judicial Council staff and/or its designees. Each member of the evaluation team will assign a point score according to the following grading schedule. Points assigned by the individual team members will then be averaged to determine an initial score for its Total Quality Points score for each Firm.

-
- | | |
|---|------------------|
| 1. Financial Strength, Safety Record, and Claims Avoidance: | 10 points |
| Firm has verifiable financial strength, excellent safety program and record, has successfully avoided work related accidents, damage to property during the course of construction, and public liability claims and litigation on past projects. | |
| 2. Demonstrated Experience of the Firm: | 25 points |
| Experience of the Firm in relation to the work to be performed, including demonstrated ability to meet project budgets and schedules, demonstrated effectiveness of the quality assurance program and procedures being utilized by the Firm in both Pre-construction and CMR services, and the nature and quality of recently completed work. | |
| 3. Demonstrated Experience and Training of Project Personnel: | 20 points |
| Demonstrated experience and training of the principals and key personnel to be assigned to the Project; maintain continuity of Firm's proposed staff from Pre-construction and CMR services through the Completion of the Project. | |
| 4. Project Plan/Approach: | 15 points |
| The proposed Project Plan shall demonstrate the Firm's approach to this Project indicating a clear understanding of the purpose, service, scope, and objectives of this RFQ/P, including methodology for coordination and issue tracking and quality control strategies. The Project Plan shall demonstrate the Firm's approach to advertising and outreach to the local subcontractor and vendor community; as well as the plan for construction traffic mitigation; this approach should clearly identify the Firm's plan to encourage participation by local subcontractors and vendors. | |
| 5. In Person Interview (Optional): | 30 points |
| The purpose of the In-Person Interview is to evaluate the communication skills of the team and to consider information received during the interview process related to the other evaluation criteria. The Firm's project team shall explain in detail their roles in the projects listed in the response to the RFQ. The members of the team shall explain their approach to working with sub-contractors, local government, neighbors to the project site, and demonstrate their communication skills between team members (if the in person interview is not | |

held, the total quality points for sections 1-4 will be proportionally adjusted to a 100 point scale).

Total Quality Points = 100 Points Max.

- ii. **Short List and Interviews:** As stated above, the first four (4) criteria of the Total Quality Points will be evaluated to create a short list of Firms to be interviewed. It is intended that the short list will include at least three (3) firms. Firms not on the short list will not be eligible for further consideration for this Project. The Judicial Council will then use interviews to evaluate the Firms based on the final (fifth) criterion. After the interviews, the Total Quality Points assigned to a Firm on the short list will be calculated, and the final score will be calculated.
- iii. **Price Proposal Evaluation Process:** After the conclusion of the above tasks, the Price Proposals of the Firms interviewed will be evaluated to derive a Cost per Unit of Quality (“CPQ”). The CPQ will be compared and the Firm with the lowest CPQ shall be announced as the most responsive Firm. The CPQ is the Total Price for Services (as indicated by the Firm on its Fee Proposal Form) divided by the Total Quality Points (as defined above in the SOQ Evaluation Process). For example, using the following hypothetical figures:

- Total Price for Services (from Fee Proposal) = \$8,500,000
- Total Quality Points (from above) = 89

The CPQ would be: $\$8,500,000 / 89 = \$95,505.62$

b. Execution of Agreement and Guaranteed Maximum Price [REVISED]

- i. The top ranked Firm with the lowest Cost per Unit of Quality shall be prepared to proceed to the GMP phase of the Project and commence solicitation of Subcontractor bidding immediately upon notification of selection as Project’s Construction Manager at Risk (CMR).
- ii. Upon notification by Judicial Council CMR shall competitively bid the subcontractor bid packages and the other Contract Documents, including without limitation:
 - (a) **Subcontractor Bids.** CMR shall advertise in trade venues acceptable to the Judicial Council and solicit qualifications from a sufficient number of subcontractors for each bid package to ensure at least three (3) qualified subcontractors result from this solicitation.
 - (b) CMR shall receive Subcontractor bids for bid packages and shall verify:
 - 1.b.ii.a.b.1.1. Completeness;
 - 1.b.ii.a.b.1.2. That each Subcontractor has agreed to be bound by Contract Documents; and
 - 1.b.ii.a.b.1.3. That each Subcontractor has agreed to perform within a period of time that will ensure completion of the Project in accordance with the Master Project Schedule.
 - (c) Provided that each Subcontractor bid complies with all of the above, the Subcontractor bid shall be considered a conforming bid. If insufficient conforming Subcontractor bids are received, CMR shall repeat the above solicitation process until CMR receives at least three (3) conforming Subcontractor bids.
 - (d) When sufficient conforming Subcontractor bids have been received, the CMR, shall identify that combination of bids and alternates as the Judicial Council may elect to accept that has the lowest cost while ensuring the timely construction of the Project and compliance with the DVBE Project Goal.

iii. Calculation of GMP.

- a. Based on the GMP that the CMR provides to the Judicial Council, the Judicial Council shall have the option to take the following action:
 - (a) Execute an Agreement and Proceed with the Construction Phase of the Project;
 - (b) Terminate the Selection;
 - (c) Provide additional funds as required to authorize the Project; or
 - (d) At the Judicial Council's option and as a negotiated service, have the Architect or Engineer and CMR repeat the appropriate and necessary activities of the Working Drawings Phase, with the goal of modifying the Design Documents or period of proposed construction to reduce the total cost of the resultant combination of bids and alternate. CMR shall endeavor to mitigate any time lost due to re-bids or due to the time needed for the Judicial Council to obtain any additional funding when revising the Master Schedule for the Construction Phase of the Project. Until GMP acceptable to the Judicial Council is reached, this re-bidding process may be repeated a second time at the discretion of the Judicial Council, and the Judicial Council shall have the same options specified above.
 - (e) If the second re-bid fails to produce a total construction cost less than or equal to an amount acceptable to the Judicial Council, this Agreement may be terminated by the Judicial Council.
- iv. CMR shall be paid in full for all Bidding Services provided through the end of the Working Drawings Phase, and neither Party shall have any further claims or liability for damages to the other with regard to the Services provided.
- v. CMR shall, upon authorization of the Construction Phase by the Judicial Council, provide the Construction Services. CMR shall warrant the Subcontractor bid packages against ambiguities, conflicts, or omissions.

8.0 Administrative Requirements

a. Disabled Veteran Participation Goals

- i. The Judicial Council requires contract participation goals of a minimum of three percent (3%) for disabled veteran business enterprises (DVBEs). The Judicial Council will require the selected Firm to demonstrate DVBE compliance.
 - a. The selected Firm may complete DVBE Participation Form at any time to reflect any DVBEs that take part in any Phase of the Project.
 - b. In addition, the selected Firm is required to complete a DVBE Participation Form when bidding the Project for the Construction Phase.
- ii. Information about DVBE resources can be found on the Executive Branch's internal website at <http://www.dgs.ca.gov/pd/Programs/OSDS/legislation.aspx> or by calling the Office of Small Business and DVBE Certification at 916-375-4940.
- iii. The DVBE Participation Form is attached as an Exhibit to the CMR Agreement.

b. California Rules of Court, Rule 10.500 – Public Access to Judicial Administrative Records

Records created as part of Firm's Proposal and selection process are generally subject to California Rules of Court, Rule 10.500 and may be available to the public absent an exemption. If a Firm's SOQ or Proposal contains material noted or marked as confidential and/or proprietary that, in the Judicial Council's sole opinion, meets the disclosure exemption requirements of Rule 10.500, then that information will not be disclosed pursuant to a request for records. If the Judicial Council does not consider such material to be exempt from disclosure under Rule 10.500, the material will be made available to the public, regardless of the notation or markings. If a Firm is unsure if the information contained in its SOQ or Proposal confidential and/or proprietary then it should not include the information in its SOQ and Proposal. A firm that indiscriminately identifies all or most of its SOQ or Proposal as exempt from disclosure however may be deemed non-responsive.

c. Errors in the RFQ/P

- i. If Firm discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFQ/P, Firm shall immediately provide the Judicial Council with written notice of it and request that the RFQ/P be clarified or modified. Without disclosing the source of the request, the Judicial Council may modify the RFQ/P prior to the date fixed for submission of SOQ and Proposals by issuing an addendum.
 - ii. If prior to the date fixed for submission of SOQs and Proposals, Firm knows of or should have known of an error in the RFQ/P, and fails to notify the Judicial Council of the error, Firm shall submit its SOQ and Proposal at its own risk, and if Firm is awarded the contract, it shall not be entitled to additional compensation or time by reason of the error or its later correction.
- d. **Addenda:** The Judicial Council may modify the RFQ/P prior to the date fixed for submission of Proposals by posting an addendum on the Judicial Council website. If Firm determines that an addendum unnecessarily restricts its ability to submit its Proposal, it must notify the Judicial Council no later than one (1) day following the posting of the addendum.
- e. **Withdrawal and Resubmission/Modification of Proposals:** Firm may withdraw its Proposal at any time prior to the deadline for submitting Proposals by notifying the Judicial Council in writing of its withdrawal. The notice must be signed by Firm. Firm may thereafter submit a new or modified Proposal, provided that it is received at the Judicial Council no later than the Proposal due date and time listed in this RFQ/P. Modifications offered in any other manner, oral or written, will not be considered. Proposals cannot be changed or withdrawn after the proposal due date and time listed in this RFQ/P.
- f. **Rejection of Proposals:** The Judicial Council may reject any or all Proposals and may or may not waive an immaterial deviation or defect in a Proposal. The Judicial Council's waiver of an immaterial deviation or defect shall in no way modify the RFQ/P or excuse Firm from full compliance with the RFQ/P specifications. The Judicial Council reserves the right to accept or reject any or all of the items in the Proposal, to award the contract in whole or in part and/or negotiate any or all items with individual Firm if it is deemed in the Judicial Council's best interest. Moreover, the Judicial Council reserves the right to make no selection if Proposals are deemed to be outside the fiscal constraint or against the best interest of the State of California at the Judicial Council's sole discretion.
- g. **Award of Contract (Notice of contract Award)**
- i. Notice of contract award if made, will be in accordance with the RFQ/P to a responsible Firm submitting a Proposal compliant with all the requirements of the RFQ/P and any addenda thereto, except for such immaterial defects as may be waived by the Judicial Council.
 - ii. The Judicial Council reserves the right to determine the suitability of Proposals for contracts on the basis of Firm meeting administrative requirements, technical requirements, its assessment of the quality of service and performance of items proposed, and cost.
- h. **Protest Procedure**
- i. **General.** Failure of Firm to comply with the protest procedures set forth in this Section, will render a protest inadequate and non-responsive, and will result in rejection of the protest.
 - ii. **Prior to Submission of Proposal.** An interested party that is an actual or prospective Firm with a direct economic interest in the RFQ/P may file a protest based on allegedly restrictive or defective specifications or other improprieties in the RFQ/P process. Such protest must be received prior to the Proposal Closing Time. The protestor shall have exhausted all administrative remedies discussed herein prior to submitting the protest. Failure to comply with this Procedure shall be grounds for denying the protest.
 - iii. **After Award**
 - a. A Firm submitting a Proposal may protest the award based on allegations of improprieties occurring during the proposal evaluation or award period if it meets all of the following conditions:
 - 1. The Firm has submitted a Proposal that it believes to be responsive to the RFQ/P document;
 - 2. The Firm believes that its Proposal meets the administrative and technical requirements of the

RFQ/P, proposes services of proven quality and performance, and offers a competitive cost; and

3. The Firm believes that the Judicial Council has incorrectly selected another Firm submitting a proposal for an award.

- b. Protest must be received no later than five (5) business days after the Judicial Council post the Notice of Intent to Award.

iv. **Form of Protest**

- 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 RFQ/P 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.
- f. The Judicial Council, 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 Judicial Council will not consider such new grounds or new evidence.

v. **Determination of Protest Submitted Prior to Submission of Proposal.** Upon receipt of a timely and proper protest, the Judicial Council will provide a written determination to the protestor prior to the Proposal Due Date. If required, the Judicial Council may extend the Proposal 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 Judicial Council, 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.

vi. **Determination of Protest Submitted After Submission of Proposal.** Upon receipt of a timely and proper protest, the Judicial Council will investigate the protest and will provide a written response to the Firm within a reasonable time. If the Judicial Council requires additional time to review the protest and is not able to provide a response within ten (10) business days, the Judicial Council will notify the Firm. If the protesting party elects to appeal the decision, the protesting party will follow the appeals process outlined below. The Judicial Council, 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.

vii. **Appeals Process**

- a. The Judicial Council's decision shall be considered the final action by the Judicial Council unless the protesting party thereafter seeks an appeal of the decision by filing a request for appeal, within five (5) calendar days of the issuance of the Judicial Council's decision.
- b. The justification for appeal is specifically limited to:
 1. Facts and/or information related to the protest, as previously submitted, that were not available at the time the protest was originally submitted;
 2. The Judicial Council's decision contained errors of fact, and such errors of fact were significant and material factors in the Judicial Council's decision; or

3. The Judicial Council's decision was in error of law or regulation.
- c. Firm's request for appeal shall include:
1. The name, address telephone and facsimile numbers, and email address of the Firm filing the appeal or their representative;
 2. A copy of the Judicial Council's decision;
 3. The legal and factual basis for the appeal; and
 4. The ruling or relief requested.
- d. Upon receipt of a request for appeal, the Judicial Council will review the request and the decision and shall issue a final determination. The decision shall constitute the final action of the Judicial Council.

viii. **Protest Remedies**

- a. If the protest is upheld, the Judicial Council will consider all circumstances surrounding the RFQ/P in its decision for a fair and reasonable remedy, including the seriousness of the RFQ/P deficiency, the degree of prejudice to the protesting party or to the integrity of the competitive process, the good faith efforts of the parties, the extent of performance, the cost to the Judicial Council, the urgency of the procurement, and the impact of the recommendation(s) on the Judicial Council. The Judicial Council may recommend, but not limited to any of the following:
1. Terminate the awarded contract for convenience;
 2. Re-solicit the requirement;
 3. Issue a new RFQ/P;
 4. Refrain from exercising options to extend the term under the contract, if applicable;
 5. Award a contract consistent with statute or regulation; or
 6. Any other remedies as may be required to promote compliance.
- i. **Disposition of Materials.** All materials submitted in response to this RFQ/P will become the property of the State of California and will be returned only at the Judicial Council's option and at the expense of the Firm submitting the Proposal. One copy of a submitted Proposal will be retained for official files and become a Judicial Administrative Record subject to public disclosure pursuant to California Rules of Court, Rule 10.500.

END OF RFQ/P FORM