

ATTACHMENT B

ADMINISTRATIVE RULES GOVERNING REQUESTS FOR QUALIFICATIONS/PROPOSALS

A. *General*

1. This solicitation (the “RFQ/RFP”) (including, without limitation, any modification made thereto in the course of the solicitation), the evaluation of materials to be submitted in response to this solicitation (the “Proposal(s)”), the award of any contract, and any issues to be raised with regards to this solicitation or to these Administrative Rules Governing Requests for Qualifications/Proposals themselves (the “Administrative Rules”) shall be governed by these Administrative Rules. By the act of submission of a Proposal, prospective Consultants agree to be bound by these Administrative Rules. If a prospective Consultant has objections to the Administrative Rules, they must be dealt with in accordance with the provisions of Section B.
2. In addition to explaining the Administrative Office of the Courts’ (AOC’s) requirements and needs for goods and/or services, the RFQ/RFP includes instructions which prescribe the format, content, and the date and time due of Proposals/submittals that are being solicited. Prospective Consultants must adhere to all instructions provided in the RFQ/RFP when submitting responses to this RFQ/RFP.

B. *Errors in the RFQ/RFP or Administrative Rules*

1. If a prospective Consultant who desires to submit a SOQ (Statement of Qualifications) discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFQ/RFP; is of the opinion that the structure of the RFQ/RFP does not provide a correct or optimal methodology for the solicitation of the goods and/or services sought; believes that one or more of the RFQ/RFP’s requirements is onerous or unfair; believes that the RFQ/RFP unnecessarily precludes less costly or alternative solutions; or has objections to these Administrative Rules, the prospective Consultant must, at least two full AOC business days before the due date of the Proposals, provide the AOC with written notice of the same. The written notice shall be accompanied by a written explanation of why the prospective Consultant is of the opinion that the RFQ/RFP. Failure to provide the AOC with such written notice as specified above on or before the time specified above forfeits the prospective Consultant’s right to raise such issues later in the solicitation process.
2. Without disclosing the source of the request, the AOC will evaluate the request and will, prior to the date established for submission of the SOQs, at its sole discretion; determine if it chooses to modify the RFQ/RFP. Any modification made will be published by the AOC on the AOC’s website advertising the solicitation.

3. If a prospective Consultant submitting a SOQ knows of (or if it can be reasonably demonstrated should have known of) an error in the RFQ/RFP but fails to notify the AOC of the error as prescribed above, the prospective Consultant is submitting a SOQ at its own risk, and, if awarded the work, shall not be entitled to additional compensation or time for performance by reason of such error later identified, or by reason of its later correction by the AOC.

C. *Questions and Confidentiality*

1. Prospective Consultants are entitled to ask questions about the RFQ/RFP and the nature of the goods and/or services being solicited in accordance with the procedure for the submission of such questions specified in the RFQ/RFP. Except as otherwise specified below, the AOC's responses to questions submitted shall be published to the public website for the procurement.
2. The Administrative Office of the Courts is bound by California Rules of Court 10.500 as to disclosure of its administrative records. If a prospective Consultant's question relates to a proprietary aspect of its proposal 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.
3. If the AOC receives a request for public access to material submitted in response to the RFQ/RFP, the AOC will determine, in its sole opinion, whether marked material is exempt from disclosure under Rule 10.500 or other applicable law. If the AOC, in its sole opinion, find or reasonably believes that the material so marked is exempt from disclosure, the material will not be disclosed. If the AOC finds or reasonable believes that the material so marked is not exempt from disclosure, the AOC will contact the prospective Consultant with a request to substantiate its claim for confidential treatment, but may disclose the information pursuant to rule 10.500 and other applicable law regardless of the marking or notation seeking confidential treatment.

D. *Addenda*

1. In response to questions raised, or at its sole discretion, the AOC may modify the RFQ/RFP website posting or any of any document(s) provided therein at any time prior to the date and time fixed for submission of SOQs. Such modification shall be made via a posting of such change(s) to the AOC's website.

E. Withdrawal and Resubmission of Submittals

1. A prospective Consultant may withdraw its submission/SOQ, but only in its entirety, at any time prior to the deadline for submitting by notifying the AOC in writing of its withdrawal. Any such notice of withdrawal must bear the signature of an individual and assert that that individual has the requisite authority from their organization to make such a withdrawal. Withdrawals must be made in writing, and must be submitted as a PDF document by e-mail to the e-mail address established for the submission of questions found on page 2 of this RFQ/RFP document.
2. A prospective Consultant who has withdrawn a submission may thereafter submit a new SOQ, provided that it is received at the AOC no later than the due date and time specified in this RFQ/RFP.
3. Withdrawals made in any other manner, regardless of whether oral or written, will not be considered, and, if received, will not be accepted as valid.
4. An SOQ cannot be withdrawn after the submittal due date and time specified in this RFQ/RFP.

F. Evaluation Process

1. In accordance with the provisions of the RFQ/RFP, an evaluation will be made of all submittals rightfully received, to determine if they are complete with regard to the materials required for submission by this RFQ/RFP and to determine if they otherwise comply with the requirements established in the RFQ/RFP.
2. If an SOQ submitted is incomplete with regards to the materials required for submission or fails to meet any other material requirement of the RFQ/RFP, the submittal will be rejected. A requirement will be judged to be material to the extent that it is not responsive to or is not in substantial accord with requirements of the RFQ/RFP. Material deviations cannot be waived.
3. The AOC, at its sole discretion shall have the right to waive immaterial deviations of SOQs with regards to the materials submitted as well as other immaterial deviations from the requirements of the RFQ/RFP.
4. The AOC's waiver of an immaterial deviation for one prospective Consultant shall in no way act to excuse that prospective Consultant from material compliance with any other RFQ/RFP requirement. The AOC's waiver of an immaterial deviation for one prospective Consultant shall in no way act to excuse other prospective Consultant(s) from material compliance with that same requirement.
5. Submittals that make false or misleading statements or contain false or misleading information may be rejected, if, in the AOC's sole opinion, the AOC concludes that said statements and/or information were intended to mislead the AOC.

6. During the evaluation of the SOQ/submittals, the AOC has the right to require a prospective Consultant's representatives to answer questions with regard to the SOQ submitted. Failure of a prospective Consultant to demonstrate that the claims made in its submittal are in fact true may be sufficient cause for deeming a SOQ to be materially in non-compliance with the requirements of the RFQ/RFP.

G. *Proposals: Rejection, Negotiation, Selection Rights*

1. In accordance with the provisions of the RFQ/RFP, the AOC may reject any or all submittals.
2. The AOC reserves the right to negotiate the content of the SOQ proposed with individual prospective Consultants if it is deemed in the AOC's best interest.
3. The AOC reserves the right to make no selection if SOQs are deemed to be outside the fiscal constraints of, 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 provisions of the RFQ/RFP except to the degree that any immaterial deviation(s) have been waived by the AOC.
2. The actual execution of contracts is subject to availability of the funds necessary to pay for the good and services by the State of California through its budgeting and appropriations methods. The AOC makes no guarantee of funding through its solicitation for goods and/or services via an RFQ/RFP.

I. *Execution of Contracts*

1. The AOC will make a reasonable effort to execute a contract for the goods and/or services solicited in this RFQ/RFP within the time specified in the RFQ/RFP, or, if no time has been specified in the RFQ/RFP, thirty (30) calendar days following the date of publication of award. Exceptions to the contract documents posted with the RFQ/RFP that are raised by a prospective Consultant may delay the execution of contracts. If the negotiation of exceptions raised results in a delay of the planned time of execution past the time period allowed for as specified above (unless otherwise extended in writing by the AOC), the AOC, at its sole discretion, shall have the right disqualify the award made.
2. By submitting a SOQ, a prospective Consultant consents to the use of the form of contract posted with the RFQ/RFP rather than its own contract form. Questions about and major exceptions to the contract form should be submitted as questions in accordance with the provisions for the raising and answering of questions as given in the RFQ/RFP, and not following notification of an award. The AOC will make reasonable attempts to answer such questions, however, the contract will not be

negotiated until after the award is made, and prospective consultants shall not construe the AOC's responses to questions as the AOC's final position on a question raised, nor rely on the AOC's answers as a guarantee of a later successful negotiation of terms.

J. Protest Procedure

1. All protests are subject to, and shall follow, the process provided below.
2. Failure of a prospective Consultant to comply with any of the requirements of the protest procedures set forth in this Section J will render a protest inadequate and will result in rejection of the protest by the AOC. Such failure and subsequent rejection shall act to further forfeit the right of the prospective Consultant to continue the protest, and is not appealable under this protest procedure.
3. A protest may only be based upon allegedly restrictive requirement in the RFQ/RFP or upon alleged improprieties in regard to the AOC's execution of its responsibilities with regard to receipt and evaluation of the SOQs, or grant of award(s) but only as such responsibilities are specified in this RFQ/RFP document.

a. Protests Based On Allegedly Restrictive Requirements:

Protests alleging restrictive requirements in the RFQ/RFP must be submitted and will be subject exclusively to the provisions of Section B of these Administrative Rules. Any protest alleging restrictive requirements in the RFQ/RFP raised later than as specified in Section B will not be considered a valid protest, will be rejected by the AOC, and the prospective Consultant shall have no further recourse under this procedure, including no further right of appeal.

b. Protests Based on Alleged Improprieties in Regard to the AOC's Execution of its Responsibilities:

A prospective Consultant who has actually submitted a SOQ may protest the AOC's rejection of its SOQ for failure to comply with the requirements of the RFQ/RFP, or upon the basis of an allegation of improprieties with regard to the AOC's responsibility to fairly and impartially evaluate the SOQs and make awards, but only insofar as such responsibilities are specified in the RFQ/RFP document. In order to be accepted as valid, such protests must meet at least one of the following conditions and must be submitted in writing with the required documentation specified below:

1. If a Proposal is rejected because of an alleged failure to provide the SOQ to the AOC on or before the date and time due, and/or to the place required, and/or to otherwise properly provide the SOQ with regard to any other requirement necessary to make a correct submission as specified by the RFQ/RFP, the prospective Consultant may file a protest. Said protest must provide verifiable documentation that it has submitted a SOQ in compliance

with all the RFQ/RFP's directives regarding timeliness, place of delivery and/or other required aspects necessary to make a submission. Such protests must be filed within five (5) full AOC business days following the date of dispatch of the notice of rejection.

2. If a submission is rejected because the SOQ submitted is incomplete with regards to the materials required to make a submission or fails to meet any other material requirement of this RFQ/RFP, the prospective Consultant may file a protest. Said protest must provide a written explanation which alleges to reasonably demonstrate that the SOQ submitted was in fact complete and/or is in fact in compliance with the RFQ/RFP requirement(s) in question.

Such protests must be filed within five (5) full AOC business days following the date of dispatch of the notice of rejection.

3. If a SOQ fails to win an award or qualify the prospective Consultant for a short listing for further evaluation and the prospective Consultant alleges that said failure was due to a failure of the AOC to fairly and impartially execute its responsibilities with regard to evaluation and award of the work as such responsibilities were specified in the RFQ/RFP, the prospective Consultant may file a protest. Said protest must provide a written explanation which alleges to reasonably demonstrate in what manner the AOC has failed to fairly and impartially execute said responsibilities. Such protests must be filed within five (5) full AOC business days following the date of posting of award notices to the AOC website for this RFQ/RFP.

In order to be considered valid, all such protests to be submitted:

1. Must be submitted by e-mail to the e-mail address established for the submission of questions in this RFQ/RFP found on page 2 of this document. PDF documents may accompany the e-mail as further detailed below.
2. Must include the name, address, telephone and facsimile numbers, and email address of the party protesting or their representative.
3. Must provide the title of the solicitation document under which the protest is submitted.
4. Must provide a detailed description of the specific legal and/or factual grounds for the protest and all supporting documentation and evidence available to the protesting party. PDF files of documents are acceptable, but the AOC reserves the right to require originals if it so deems necessary. If the protestor fails to include documentation or evidence which could have reasonably been provided at the time the protest is made, such failure shall act to restrict the introduction of such evidence at a later date.
5. Must provide a detailed description of the specific ruling or relief requested.

6. Must cite **all** protests that the prospective Consultant intends to make. Failure to raise a protest in the initial protest submittal shall act to disqualify the raising of that protest at a later date.

Any protest failing to meet or provide the appropriate requirements as noted above shall not be considered valid and will be rejected as non-compliant by the AOC and the prospective Consultant shall have no further recourse under this procedure, including any right of appeal.

If, in the course of investigation of a protest and when the AOC deems necessary, the AOC may request and protestor shall make best efforts to provide further evidence or documentation as requested by the AOC.

The existence of a protest will in no way act to restrict the right of the AOC to proceed with the procurement. The AOC, at its sole discretion, may elect to withhold the contract award(s) until the protest is resolved or denied or may proceed with the award as it deems in the best interests of the State of California.

K. Protest Decisions

The protest will be forwarded to the appropriate Contracting Officer at the AOC, who will assess the protest submission for compliance with the requirements of these Administrative Rules, and, if deemed a valid protest under said rules, shall examine the issues raised and materials provided. Invalid protests shall be returned accompanied with a statement detailing the aspects of the protest submitted that failed to comply with the Administrative Rules.

If the protest submission is deemed valid, the AOC will consider the relevant circumstances surrounding the procurement in its prescription of a fair and reasonable remedy.

The Contracting Officer will endeavor to provide the protesting prospective Consultant with a written judgment within ten (10) AOC business days following the day of receipt of the protest. The judgment shall include a description of any relief or remedy that shall be provided.

If awarding a remedy, the AOC shall, at its sole discretion, choose to employ any or a combination of the following remedies:

- Award the contract consistent with the RFQ/RFP
- Extend an additional award to the protesting prospective Consultant
- Terminate the already existing contract that resulted from the RFQ/RFP and award the contract to the protesting prospective Consultant
- Terminate the already existing contract that resulted from the RFQ/RFP for convenience and re-solicit the RFQ/RFP
- Refrain from exercising options to extend the term of the contract that resulted from the RFQ/RFP and re-solicit sooner than originally planned

- Other such remedies as the AOC may deem necessary and appropriate.

While the AOC will endeavor to investigate the protest and provide a written response to the prospective Consultant within ten (10) AOC business days, if the AOC requires additional time to review the protest and is not able to provide a response within said period of time, the AOC will notify the prospective protesting Consultant of the expected time within which it shall provide a response.

L. Appeals Submission

The Contracting Officer's ruling and any relief specified in the ruling shall be considered the final judgment and adequate relief regarding the protest unless the protesting Consultant thereafter seeks an appeal of the ruling or relief prescribed.

All appeals are subject to, and shall follow, the process provided below.

The protestor may seek an appeal of the ruling and/or relief by filing a request for appeal addressed to the AOC's Senior Manager, Business Services, at the same address noted for the submission of questions in the RFQ/RFP. In order to be accepted as valid, any such appeal must be received by the AOC within five (5) AOC business days following the date of issuance of the AOC Contracting Officer's decision.

The justification for an appeal is specifically limited to the following.

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

Appeals raising other justifications for appeal shall be rejected as non-compliant and the prospective Consultant shall have no further recourse under this procedure, including any further right of appeal.

In order to be considered valid, all requests for appeal must be:

- a. Submitted by e-mail to the e-mail address established for the submission of questions in the RFQ/RFP document and addressed to the AOC's Senior Manager, Business Services. PDF documents may accompany the e-mail as further detailed below.
- b. Must include the name, address, telephone and facsimile numbers, and email address of the appealing party or their representative.

- c. Must provide the title of the solicitation document under which the appeal is submitted.
- d. Must provide a detailed description of the specific legal and/or factual grounds for the appeal and all supporting documentation and evidence available to the protesting party. PDF files of documents are acceptable, but the AOC reserves the right to require originals if it so deems necessary. If the appeal fails to include documentation or evidence which could have reasonably been provided at the time the appeal is made, such failure shall act to restrict the introduction of such evidence at a later date.
- e. Must provide a detailed description of the specific ruling or relief requested.
- f. Must cite **all** appeals that the protesting prospective Consultant intends to make. Failure to raise an appeal in the initial appeal submittal shall act to disqualify the raising of that appeal at a later date.

M. Appeals Decisions

The AOC's Senior Manager, Business Services will assess the appeal submission for compliance with the requirements of these Administrative Rules, and, if deemed a valid appeal under said rules, shall examine the issues raised and materials provided. Invalid appeals shall be returned accompanied with a statement detailing the aspects of the appeal submitted that failed to comply the Administrative Rules.

If the appeal submission is deemed valid, the AOC will consider the relevant circumstances surrounding the procurement in its prescription of a fair and reasonable remedy.

The AOC Senior Manager for Business Services will endeavor to provide the appealing prospective Consultant with a written judgment within ten (10) AOC business days following the day of receipt of the appeal. The judgment shall include a description of any relief or remedy that shall be provided.

While the AOC will endeavor to investigate the appeal and provide a written response to the prospective Consultant within ten (10) AOC business days, if the AOC requires additional time to review the appeal and is not able to provide a response within said period of time, the AOC will notify the appealing prospective Consultant of the expected time within which it shall provide a response.

The judgment of the AOC Senior Manager of Business Services and any relief or remedy specified shall be final and are not subject to further appeal.

N. News Releases

News releases pertaining to the existence or disposition of a protest or appeal may not be made without prior written approval of the AOC Senior Manager, Business Services.

O. Disposition of Proposal Materials Submitted

All materials submitted in response to the RFQ/RFP 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 (1) copy of a submitted SOQ will be retained for official files and become a public record.

P. Payment and Withholding

1. Payment terms will be specified in the contract document that will be executed as a result of an award made under this RFQ/RFP, however, prospective Consultants are hereby advised that AOC payments are made by the State of California, and the State does not make any advance payment for services. Payment by the State is normally made based upon completion of tasks as provided for in the agreement between the AOC and the selected Consultant.
3. The AOC may withhold ten percent (10%) of each invoice until receipt and acceptance of the final good or service procured. The amount withheld may depend upon the length of the project and the payment schedule provided in the agreement between the AOC and the awarded Consultant.

END OF ATTACHMENT B