



# **Request for Qualifications and Proposals for Preconstruction Services and Construction Management at Risk Services with a Guaranteed Maximum Price**

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**New Kings County Courthouse**

Superior Court of California

County of Kings

The Administrative Office of the Courts, Office of Court Construction and Management seeks proposals from Construction Management firms qualified to provide services in all phases of design and construction of a new courthouse for the Superior Court of California, County of Kings.



**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/PROPOSALS

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**Request for Qualifications and Proposals for  
Preconstruction Services and Construction Management at Risk  
with a Guaranteed Maximum Price**

Date  
February 24, 2011

To  
Construction Management Firms

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

Project Title  
New Kings County Courthouse  
Solicitation Number: OCCM-2011-08-BR

Send Proposals To:  
Judicial Council of California  
Administrative Office of the Courts  
Attn: Ms. Nadine McFadden,  
Business Services, 7th Floor  
455 Golden Gate Avenue  
San Francisco, CA 94102  
*(indicate RFQ/P number and project name  
on lower left corner of envelopes)*

Contact:  
[OCCM\\_Solicitations@jud.ca.gov](mailto:OCCM_Solicitations@jud.ca.gov)

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**Schedule of Events**

No.	Events	Dates (Calif. Time)
1	Pre-Proposal / Project Review Teleconference. Telephone Participants Dial: 866-837-1955	<b>10:00 AM on Wednesday, March 2, 2011</b>
2	Deadline for submission of Proposer's Requests for Clarifications re: the RFQ/P and non-binding email of Intent to Respond	<b>5:00 PM on Tuesday, March 8, 2011</b>
3	Clarifications, Modifications and Answers to Questions posted on "courtinfo" website: <a href="http://www.courtinfo.ca.gov/reference/rfp/">http://www.courtinfo.ca.gov/reference/rfp/</a>	<b>5:00 PM on Thursday, March 17, 2011 (estimated)</b>
4	<b><u>Submittal Deadline for RFQ/P</u></b>	<b>1:00 PM on Tuesday, March 29, 2011</b>
5	Posting of Short Listed Proposers on "courtinfo" website	<b>5:00 PM on April 26, 2011 (estimated)</b>
6	Interviews of Short Listed Proposers at AOC Offices in Fresno, CA.	<b>Thursday or Friday May 5 or 6, 2011 (estimated)</b>
7	Posting of Intent to Award on "courtinfo" website	<b>Thursday, May 12, 2011</b>

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### Attachments:

- A CM Agreement for Preconstruction and Construction Phase Services
- B Project Summary and Feasibility Report
- C Construction Phase Scope Detail
- D Form for Submission of Questions
- E Technical Qualifications Questionnaire
- F Fee Proposal Form
- G Payee Data Record
- H General Conditions of the Contract for Construction, Document 00700
- I Cost Responsibility Matrix

## **1.0 Introduction**

This Request for Qualifications and Proposal (RFQ/P) is the means for Construction Managers to submit their proposals to the AOC for the services described in this document. The RFQ/P and all associated documents and addenda are available in electronic form at <http://www.courtinfo.ca.gov/reference/rfp/>.

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.

## **2.0 Purpose of this Request for Qualifications/Proposal**

The AOC seeks to retain the services of a qualified Construction Manager (CM) with expertise in all phases of preconstruction and construction of public buildings as described herein, for the Project as described in article 3, Project Description. Subject to the conditions prescribed by the AOC and provided herein, the AOC is hereby soliciting Qualifications and Proposals for furnishing Preconstruction Services and Construction Management with a Guaranteed Maximum Price (GMAX) for the Project, as described in this RFQ/P. The selected CM will apply their expertise to all aspects of the Project in collaboration with other project participants to provide significant value to the state judicial system. Selection will be made on the basis of a combination of qualifications and price. The AOC intends to award the CM at Risk Contract and issue a Notice To Proceed in a timely manner following the selection process.

This RFQ/P describes the Project in terms of Preconstruction Phase Services and Construction Phase services. The procurement method for the purchase of the services during the Preconstruction Phase of this Project shall be a firm fixed price proposal. The procurement method for the Construction Phase of this Project uses a procurement method that is commonly known as “Construction Manager at Risk with Guaranteed Maximum Price” (CM at Risk). This RFQ/P requests that interested firms submit a Proposal which encompasses both Phases of the Project.

In responding to this RFQ/P, all Proposers are required to adhere to all of AOC requirements provided herein. All Proposers must hold and maintain a valid type B general contractor license from the State of California. The AOC will contract with a single firm or entity, and the successful Proposer may not self-perform construction work or bid on subcontractor bid packages.

### **3.0 Project Description**

A description of the Project may be found in Attachment B, Project Summary and Feasibility Report.

The AOC’s estimated Direct Cost of Construction only of this Project is \$97,073,000 (excludes Contractor Contingency and insurance).

Estimated Notice to Proceed with Preliminary Plan Phase: April 2011.

Estimated Notice to Proceed with Construction Phase: January or April 2013.

The AOC anticipates construction duration of approximately six hundred seventy (670) calendar days from start to final completion. Actual final schedule will be developed to the mutual satisfaction of the AOC and CM@R.

The Project is being designed for sustainability and to the standards of LEED 2.2 “Silver” rating or better, including full participation in the LEED certification process from the design through construction phases. The contractor is to provide required, full documentation for LEED certification during construction phase. Submittals to USGBC, as required for certification, are included in the scope of work of the Architect. The Project may participate in available sustainable design incentive programs sponsored by the public utility company under the responsibility for coordination by the Architect.

### **4.0 Responding to this Request for Qualifications/Proposal**

The AOC has developed the Schedule of Events (see page 2) showing the key dates for this solicitation process. The RFQ/P and schedule are subject to change, and the AOC does not send notifications of changes to this RFQ/P or the schedule to prospective Proposers and is not responsible for failure of any Proposer to receive notification of any change in a timely manner. Proposers are advised to visit the AOC website (<http://www.courtinfo.ca.gov/reference/rfp/>) frequently to check for changes and updates to the RFP/Q, including the Schedule. Prospective Proposers must take the following actions according to the specified timelines in order to participate in this process.

#### **4.1 Optional: Submit Questions Prior to the Pre-Proposal Teleconference:**

If your organization wishes to submit questions that will be answered at the Pre-Proposal conference, please submit your written questions, using the electronic Form for Submission of Questions that is posted as Attachment D of this RFQ/P. Please complete all sections of the form when submitting. Pay particular attention to correct identification and citation of areas of the RFQ/P about which you raise questions. Questions at this stage should address the particulars of

the RFQ/P process and general questions about the overall nature of the Project. Proposers are requested to withhold highly specific questions regarding the Project until after the Pre-Proposal Teleconference. Note: Your firm name may appear when the answers to the questions you have submitted are posted to the AOC website. Posting of answers to this initial set of questions to the AOC website will be made after the Pre-Proposal Teleconference.

All questions must be submitted using the form noted above, sent as attachments to an e-mail sent to the following e-mail address: "[OCCM\\_Solicitations@jud.ca.gov](mailto:OCCM_Solicitations@jud.ca.gov)" and must include the following in the e-mail subject line: "**CM@Risk: RFQ-P Questions + (the name of your organization)**".

4.2 Optional: Participate by Phone in the Pre-Proposal Conference:

The AOC will provide an overview of the Project, introduce key AOC personnel, and answer questions submitted in writing via email prior to the Pre-Proposal Teleconference. If time allows, other questions may be solicited and answered. Although questions will be responded to verbally, the official and binding response will be the written response posted to the AOC website.

4.3 Optional: Submit Requests for Clarifications re: the RFQ/P and Email Intent to Respond:

If your organization wishes to submit questions prior to submission of a Proposal, please submit using the form and process as described in section 4.1 above. Answers to questions will be posted to the "courinfo" website on the page/link of this RFQ/P.

Email Indicating Interest: Service Providers who intend to respond to this solicitation are requested to notify the AOC by sending an email to [OCCM\\_Solicitations@jud.ca.gov](mailto:OCCM_Solicitations@jud.ca.gov) with the RFQ/P number and name in the subject line. This is not mandatory but is strongly encouraged, to assist the AOC in managing the RFQ/P process. Please include the name, address, telephone, fax number, and e-mail address of the Service Provider (firm) and contact person.

4.4 Preparing and Packaging Your Proposal:

Proposals should provide straightforward, concise information that satisfies the requirements noted in this RFQ/P. Expensive binding, elaborate displays, and the like are discouraged. Emphasis should be placed on brevity, conformity to the AOC's instructions, selection criteria of this RFQ/P, and completeness and clarity of content. Organizing proposals using tab dividers in the order indicated below help ensure that each proposal achieves the proper emphasis, and will facilitate review and evaluation. Attachments, except as noted, will not be accepted.

Each Proposer's Statement of Qualifications (SOQ) should clearly and accurately demonstrate specialized knowledge and experience required for consideration. In one sealed envelope (clearly marked "Proposal – (firm name). Project Name, RFQ/P Number"), submit the following:

- a) two (2) copies in paper form of your Price Proposal. Submit Price Proposal in a separate sealed envelope which will be included with other materials listed below. Clearly mark the envelope "Price Proposal – (firm name). Project Name, RFQ/P Number";
- b) one (1) original of the Payee Data Record form completed in the exact legal name of the Proposer's business signed by an authorized representative of the Proposer (Do not bind Payee Data Record form into the SOQ booklets);
- c) one (1) compact disk containing the complete SOQ and Payee Data Record form;

- d) 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 using divider tabs that correspond, in number and title, to the Standard Form 330 sections outlined below:

Tab 1. Cover Letter

Provide a cover letter that references this RFQ/P and includes Proposer's ability to quickly begin work in the Program Development Phase in April 2011. Additionally, confirm that all elements of the RFQ/P have been read and understood and that the Proposer has reviewed all terms stated in the CM Agreement for Preconstruction and Construction Phase Services (Attachment A of this solicitation document) and the General Conditions of the Contract for Construction, Document 00700 (Attachment H of this solicitation document) and acknowledge that maintenance responsibilities for the entire facility during the construction period will that of the CM@R (Attachment J). See required initials in Attachment F (Fee Proposal Form).

- The exact legal name, address, telephone and fax numbers, and federal tax identification number of the organization proposing to do business with the AOC (or social security number if the organization is a sole proprietorship),
- The name, telephone, fax, address, and e-mail address of one business person who is the organization's designated representative,
- The name, telephone, fax, address, and e-mail address of the contracts management or legal person who will liaise with the AOC in contractual matters.

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

Identify the Proposer's point of contact; list proposed team comprised of the key members of Proposer's firm to be assigned to this Project, including their roles and their time, in hours, dedicated to the Project for each phase of work (one page maximum); and an organizational team chart for this Project (one page maximum). Attach a one page maximum firm description after the 330 form. If more than one firm is identified in section A-D, submit a one page description for each firm.

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

Resumes of key personnel of the proposed team for the Project. Indicate name, position, years of experience, and years with firm, along with at least 2 references with current contact information per person. (One page per person maximum);

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

Maximum ten (10) example projects (public works and/or private sector) which best illustrate firm's qualifications for the scope and size of the specific project. Indicate any projects accomplished by current firm staff conducted while under the employment of others. Indicate services performed as Preconstruction services and/or Construction Management at Risk services with a GMAX. Construction shall have been completed within the past eight years and have a construction cost **over \$80,000,000**. Projects shall be relevant to California courts or buildings of similar complexity and budget and demonstrate the Proposer's ability and experience to successfully complete this court project. Type of buildings, size of buildings, **and client references are important parts of the evaluation**. Provide Owner's and architect's information and a reference contact for each that is verifiable. Provide one attached page following the text page for each project for supporting photographs and/or graphics. (Two pages per project maximum);

- Tab 5. 330 Part I (G): Key Personnel  
Key personnel participation of the proposed team and their role in the project examples from section 4. (One page maximum);
- Tab 6. 330 Part I (H): Proposed Approach  
Provide an Outline Project Plan for performing the activities specified in the Statement of Work provided in this RFQ/P. The Outline Project Plan should be organized into three sections: Preconstruction, Guarantee of GMAX/Bidding (including plans for advertising and other outreach to the local subcontractor community), and Construction Management. Use these categories to group information that illustrates your firm's proposed approach to the entire CM at Risk process, indicating your strategies for quality control, issue anticipation resolution throughout the Project, your methodology for coordination and issue tracking, as well as any other information you feel is pertinent. This section shall be signed by an authorized representative of the prospective Service Provider. (Ten pages maximum);
- Tab 7. 330 Part II: General Qualifications  
Provide general qualifications for the Proposer'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. Items 4, 5b, 8c and 11 of Part II are not required.
- Tab 8. Technical Qualifications Questionnaire  
Include completed Attachment E form here bearing an original signature from an individual with a level of authority qualified to commit your organization.
- Tab 8.1 Supporting Documentation: Safety Record,  
A description of your organization's Project safety and security program, and an explanation of your organization's experience in assisting an owner in the successful administration of an owner controlled insurance program.
- Tab 8.2 Supporting Documentation: Litigation History  
List any litigation(s) or resolution(s) within the past 5 years, include dispute(s) that were or were not resolved through arbitration.
- Tab 9. General Contractor License  
Include a copy of your Type B general contractor license permitting your firm to perform construction work in the State of California.
- Tab 10. Financial Information  
Provide one original printed (preferred) or copy of your audited and already published financial statements for three annual periods preceding the due date for your Proposal. Please be certain that the statements provided are in the same legal name as that in which you intend to do business with the AOC and not in the name of parent organizations, or include other subsidiaries.

Any questions regarding this solicitation document shall be directed in writing (via email) to the Business Services Manager for this RFQ/P process. Proposers/potential Proposers are to refrain from contacting any other AOC personnel with regards to this RFQ/P. The Business Services Manager for this solicitation process is:

Barbara Robinson  
Contract Specialist  
Finance/Business Services  
Judicial Council of California - Administrative Office of the Courts  
455 Golden Gate Avenue  
San Francisco, CA 94102-3688  
[OCCM\\_Solicitations@jud.ca.gov](mailto:OCCM_Solicitations@jud.ca.gov)

For Standard Form 330, please go to:

[http://contacts.gsa.gov/webforms.nsf/0/21DBF5BF7E860FC185256E13005C6AA6/\\$file/sf330.doc](http://contacts.gsa.gov/webforms.nsf/0/21DBF5BF7E860FC185256E13005C6AA6/$file/sf330.doc)

## **5.0 Statement of Work, Legal Terms and Conditions**

The Statement of Work (SOW) and legal terms and conditions applicable to the Construction Phase of the Project can be found in three places - Attachment A of this solicitation, "Standard Agreement for Preconstruction and Construction Phase Services", Attachment C, Construction Phase Cost Detail, and Attachment H, "General Conditions Of The Contract For Construction, Document 00700".

Services generally required in Preconstruction Phase are: Input to Design and Construction Documents, Scheduling and Phasing, Value Analysis, Constructability and Peer Reviews (not code-level plan checks), Cost Control Management, Monitor Approvals, Prepare Subcontractor Bid Packages, Identify Qualified Subcontractors and Solicit Bids, Receive bids, Agreement on Guaranteed Maximum Price.

Services generally required in Construction Phase are: Execute Subcontracts, Provide on-site support and logistics including but not limited to temporary construction office trailers and Equipment, Supervise and Direct the Work, Conduct Project Meetings, Prepare Monthly Progress Payments Application, Manage Change Order Process, Report Monthly Construction Progress, Coordinate Commissioning and Acceptance Testing, and Prepare Record Construction Documents and Closeout Project.

## **6.0 Submitting Your Proposal**

In order to be considered for award, the AOC requires that statements of qualifications and technical and price proposals ("Proposal(s)") shall be provided, in written form, not later than the time and date indicated in the Schedule of Events on page 2 of the most current version of this RFQ/P, to the following address:

**Judicial Council of California  
Administrative Office of the Courts  
Attn: Ms. Nadine McFadden,  
Business Services, Floor 7  
455 Golden Gate Avenue  
San Francisco, CA 94102**

Proposals are not to be submitted as e-mails. Proposals may be sent by US mail service certified mail, or overnight delivery carrier, or may be delivered in person. The Proposer assumes all risk of loss regarding



any delivery method it chooses to use, and the AOC shall not be held responsible for any failure of any delivery service/method. The Proposer is solely responsible for ensuring delivery no later than the date and time specified. The AOC will return unopened, any proposal received after the time specified in the most current RFQ/P Schedule.

**7.0 Selection Process**

It is the intention of AOC that its selection of the firm to provide professional construction management services for this Project shall take into consideration both the quality of the Proposer, as demonstrated by their evidenced competence and experience, and on the cost proposed to provide the services.

7.1 Proposal Evaluation Process

The evaluation team will first evaluate the Qualifications/Technical portion of the submitted Proposal to determine its responsiveness to the AOC’s expressed needs, and score them as described below. The evaluation team will not be privy to the contents of the Price Proposals during this part of the evaluation process.

7.1.1 Qualifications/Technical Proposal Evaluation Process:

The Proposals received will be analyzed and scored by members of an evaluation team which will be comprised of AOC 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 a Total Quality Points score for each Proposer.

Quality Points	Criteria	100 points possible
30	<p><b><u>Demonstrated Experience of the Firm:</u></b>            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 Preconstruction and CM at Risk services, and the nature and quality of recently completed work.</p>	
30	<p><b><u>Demonstrated Experience and Training of Project Personnel:</u></b>            Demonstrated experience and training of the principals and key personnel to be assigned to the Project; continuity of firm’s proposed staff from Preconstruction and CMAR services through the completion of the project.</p>	
20	<p><b><u>Project Plan:</u></b>            The proposed Project Plan shall demonstrate the Proposer’s approach to this Project indicating a clear understanding of the purpose, service, scope, and objectives of this solicitation (including methodology for coordination and issue tracking and quality control strategies). (15 points)             The Project Plan shall demonstrate the Proposer’s approach to advertising and outreach to the local subcontractor and vendor community; this approach should clearly identify the Proposer’s plan to encourage participation by local subcontractors and vendors. (5 points)</p>	

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**Financial Strength, Safety Record, and Claims Avoidance:**

The Proposer has verifiable financial strength, good safety program and record, and has successfully avoided claims and litigations on past projects.

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7.1.2 Short List and Interviews

The final scores will be used to create a short list of firms to be interviewed. It is intended that the short list will include at least three firms. Proposers not on the short list will not be eligible for further consideration for this Project. The interviews will be evaluated on the same criteria as the proposals. After interviews are conducted, each interview panel member will review his/her own Total Quality Points previously assigned to each Proposer on the short list and make adjustments if necessary, and the final scores will be re-calculated.

7.1.3 Price Proposal Evaluation Process

Upon conclusion of the above tasks, the Price Proposal portions will be evaluated.

In order to calculate a price for the Construction Phase Services, the Price shall be expressed as a percent of the budgeted Direct Cost of the Work to obtain a price in dollars. To this amount the fixed prices proposed for the Preliminary Plan Phase and the Working Drawing Phase will be added, to achieve a final Total Price for evaluation purposes. The Total Price will be divided by the average of the Total Quality Points, to obtain the Cost Per Unit of Quality for each Proposer. The Cost/Unit Quality figures will be compared and the Proposer with the lowest Cost Per Unit of Quality shall be announced as the most responsive Proposer

$$\frac{\text{Total Price in Dollars}}{\text{Total Quality Points}} = \text{Cost Per Unit of Quality}$$

EXAMPLE Based on a Fixed Price of \$150,000 for Preliminary Plan Phase Services, a Fixed Price of \$250,000 for Working Drawing Phase Services, a budgeted cost of construction of \$100,000,000, a Proposed Price for Construction Phase Services expressed as a percent of Direct Costs of 7%, and a Total Quality Point Score of 89 points, a Proposer would be scored as follows:

$$\$150,000 + \$250,000 + (7\% \times \$100,000,000) = \$7,400,000 \text{ (Total Price in Dollars)}$$

$$\frac{\$7,400,000}{89 \text{ points}} = \$83,146 / \text{Unit of Quality}$$

The winning Proposer should be prepared to commence work immediately following execution of the legal contract provided in Appendix A. In the event an agreement cannot be reached with the selected Proposer after a reasonable amount of time, the AOC may choose to award the agreement to the next-highest ranked Proposer.

**8.0 Disabled Veteran Participation Goals**

The State of California requires contract participation goals of a minimum of three percent (3%) for disabled veteran business enterprises (DVBE's). The AOC is subject to this participation goal. The AOC will require that the **selected** Contractor demonstrate DVBE compliance and complete a DVBE

Compliance Form when bidding the Project for Construction. If it would be impossible for the selected Contractor to comply, explanation of why and demonstration of written evidence of a “good faith effort” to achieve participation would be required. Sample information and forms follow as part of the Administrative Rules governing the Submission of Proposals. Information about DVBE resources can be found on the Executive Branch’s internal website at <http://www.dgs.ca.gov/default.htm>, or by calling the Office of Small Business and DVBE Certification at 916-375-4940.

## **9.0 Administrative Rules Governing this Request for Qualifications/Proposal**

### **A. General**

1. This solicitation (the “RFQ/P”) (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 Proposals themselves (the “Administrative Rules”) shall be governed by these Administrative Rules. By the act of submission of a Proposal, prospective Service Providers agree to be bound by these Administrative Rules. If a prospective Service Provider 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/P includes instructions which prescribe the format, content, and the date and time due of Proposals/submittals that are being solicited. Prospective Service Providers must adhere to all instructions provided in the RFQ/P when submitting responses to this RFQ/P.

### **B. Errors in the RFQ/P or Administrative Rules**

1. If a prospective Service Provider who desires to submit a SOQ discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFQ/P; is of the opinion that the structure of the RFQ/P 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/P’s requirements is onerous or unfair; believes that the RFQ/P unnecessarily precludes less costly or alternative solutions; or has objections to these Administrative Rules, the prospective Service Provider must, at least 2 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 Service Provider is of the opinion that the RFQ/P or the Administrative Rules should be changed, as well as a written description of the modification sought. Said written notice must be in the form of an e-mail submitted to the e-mail address established for the submission of questions in the RFQ/P. Failure to provide the AOC with such written notice as specified above on or before the time specified above forfeits the prospective Service Provider’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/P. Any modification made will be published by the AOC on the AOC’s website advertising the solicitation.

3. If a prospective Service Provider submitting a SOQ knows of (or if it can be reasonably demonstrated should have known of) an error in the RFQ/P but fails to notify the AOC of the error as prescribed above, the prospective Service Provider 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 Service Providers are entitled to ask questions about the RFQ/P 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/P. 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 Service Provider's question relates to a proprietary aspect of its proposal and the question would expose proprietary information if disclosed to competitors, the prospective Service Provider may submit the question in writing, conspicuously marking it as "CONFIDENTIAL." With the question, the prospective Service Provider 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 Service Provider will be notified.
3. If the AOC receives a request for public access to material submitted in response to the RFQ/P, 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 Service Provider 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/P 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 Service Provider 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/P document.

2. A prospective Service Provider 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/P.
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. SOQ cannot be withdrawn after the submittal due date and time specified in this RFQ/P.

**F. Evaluation Process**

1. In accordance with the provisions of the RFQ/P, 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/P and to determine if they otherwise comply with the requirements established in the RFQ/P.
2. If a SOQ submitted is incomplete with regards to the materials required for submission or fails to meet any other material requirement of the RFQ/P, 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/P. 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/P.
4. The AOC's waiver of an immaterial deviation for one prospective Service Provider shall in no way act to excuse that prospective Service Provider from material compliance with any other RFQ/P requirement. The AOC's waiver of an immaterial deviation for one prospective Service Provider shall in no way act to excuse other prospective Service Provider(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 Service Provider's representatives to answer questions with regard to the SOQ submitted. Failure of a prospective Service Provider 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/P.

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

1. In accordance with the provisions of the RFQ/P, 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 Service Providers 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/P 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/P.

#### **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/P within the time specified in the RFQ/P, or, if no time has been specified in the RFQ/P, thirty (30) calendar days following the date of publication of award. Exceptions to the contract documents posted with the RFQ/P that are raised by a prospective Service Provider 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 to disqualify the award made.
2. By submitting a SOQ, a prospective Service Provider consents to the use of the form of contract posted with the RFQ/P 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/P, 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 vendors 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 Service Provider 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 Service Provider 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/P 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/P document.

a. Protests Based On Allegedly Restrictive Requirements:

Protests alleging restrictive requirements in the RFQ/P 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/P raised later than as specified in Section B will not be considered a valid protest, will be rejected by the AOC, and the prospective Service Provider 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 Service Provider 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/P, 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/P 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:

- a. 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/P, the prospective Service Provider may file a protest. Said protest must provide verifiable documentation that it has submitted a SOQ in compliance with all the RFQ/P'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.
- b. 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/P, the prospective Service Provider 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/P 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.
- c. If a SOQ fails to win an award or qualify the prospective Service Provider for a short listing for further evaluation and the prospective Service Provider 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/P, the prospective

Service Provider 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/P.

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/P 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 Service Provider 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 Service Provider 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 Service Provider 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/P
- Extend an additional award to the protesting prospective Service Provider
- Terminate the already existing contract that resulted from the RFQ/P and award the contract to the protesting prospective Service Provider
- Terminate the already existing contract that resulted from the RFQ/P for convenience and re-solicit the RFQ/P
- Refrain from exercising options to extend the term of the contract that resulted from the RFQ/P 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 Service Provider 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 Service Provider 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 Service Provider 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/P. 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; or
- 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; or
- 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 Service Provider 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:

1. Submitted by e-mail to the e-mail address established for the submission of questions in the RFQ/P document and addressed to the AOC's Senior Manager, Business Services. 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 appealing party or their representative.
3. Must provide the title of the solicitation document under which the appeal is submitted.
4. 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.
5. Must provide a detailed description of the specific ruling or relief requested.
6. Must cite **all** appeals that the protesting prospective Service Provider 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 Service Provider 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 Service Provider 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 Service Provider 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/P 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 Service Provider submitting the SOQ. One 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/P, however, prospective Service Providers 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 Service Provider.
2. The AOC may withhold ten percent 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 Service Provider.

(DVBE forms follow)

## DVBE PARTICIPATION FORM

Proposer Name: \_\_\_\_\_

RFP Project Title: \_\_\_\_\_

RFP Number: \_\_\_\_\_

The State of California Judicial Branch's goal of awarding of at least three percent (3%) of the total dollar contract amount to Disabled Veterans Business Enterprise (DVBE) has been achieved for this Project. *Check one:*

**Yes** \_\_\_\_\_ (Complete Parts A & C only)

**No** \_\_\_\_\_ (Complete Parts B & C only)

*"Contractor's Tier" is referred to several times below; use the following definitions for tier:*

0 = Prime or Joint Contractor;

1 = Prime subcontractor/supplier;

2 = Subcontractor/supplier of level 1 subcontractor/supplier

### PART A - COMPLIANCE WITH DVBE GOALS

*Fill out this Part ONLY if DVBE goal has been met; otherwise fill out Part B.*

INCOMPLETE DOCUMENTATION MAY RESULT IN DISQUALIFICATION  
FROM FURTHER PARTICIPATION IN SELECTION PROCESS FOR THIS  
SOLICITATION

#### PRIME CONTRACTOR

Company Name: \_\_\_\_\_

Nature of Work \_\_\_\_\_ Tier: \_\_\_\_\_

Claimed Value: DVBE \$ \_\_\_\_\_

Percentage of Total Contract Cost: DVBE \_\_\_\_\_%

**SUBCONTACTORS/SUBCONTRACTOR/PROPOSERS/SUPPLIERS**

1. Company Name: \_\_\_\_\_  
 Nature of Work: \_\_\_\_\_ Tier: \_\_\_\_\_  
 Claimed Value: DVBE \$ \_\_\_\_\_

Percentage of Total Contract Cost: DVBE \_\_\_\_\_%

2. Company Name: \_\_\_\_\_  
 Nature of Work: \_\_\_\_\_ Tier: \_\_\_\_\_  
 Claimed Value: DVBE \$ \_\_\_\_\_

Percentage of Total Contract Cost DVBE \_\_\_\_\_%

3. Company Name: \_\_\_\_\_  
 Nature of Work: \_\_\_\_\_ Tier: \_\_\_\_\_  
 Claimed Value: DVBE \$ \_\_\_\_\_

Percentage of Total Contract Cost DVBE \_\_\_\_\_%

GRAND TOTAL: DVBE \_\_\_\_\_%

I hereby certify that the "Contract Amount," as defined herein, is the amount of \$\_\_\_\_\_. I understand that the "Contract Amount" is the total dollar figure against which the DVBE participation requirements will be evaluated.

<i>Firm Name of Proposer</i>	
<i>Signature of Person Signing for Proposer</i>	
<i>Name (printed) of Person Signing for Proposer</i>	
<i>Title of Above-Named Person</i>	
<i>Date</i>	

**PART B - ESTABLISHMENT OF GOOD FAITH EFFORT**

Fill out this Part ONLY if DVBE goal will not be met but you have made a good faith effort to meet such goal.

INCOMPLETE DOCUMENTATION MAY RESULT IN DISQUALIFICATION FROM FURTHER PARTICIPATION IN SELECTION PROCESS FOR THIS SOLICITATION

1. List contacts made with personnel from state or federal agencies, and with personnel from DVBEs to identify DVBEs.

<i>Source</i>	<i>Person Contacted</i>	<i>Date</i>

2. List the names of DVBEs identified from contacts made with other state, federal, and local agencies.

<i>Source</i>	<i>Person Contacted</i>	<i>Date</i>

3. If an advertisement was published in trade papers and/or papers focusing on DVBEs, attach proof of publication.

<i>Publication</i>	<i>Date(s) Advertised</i>

4. Solicitations were submitted to potential DVBE contractors (list the company name, person contacted, and date) to be subcontractors. Solicitation must be job specific to plan and/or contract.

<i>Company</i>	<i>Person Contacted</i>	<i>Date Sent</i>

5. List the available DVBEs that were considered as subcontractors or suppliers or both. (Complete each subject line.)

<i>Company Name:</i>	
<i>Contact Name &amp; Title:</i>	
<i>Telephone Number:</i>	
<i>Nature of Work:</i>	
<i>Reason Why Rejected:</i>	

<i>Company Name:</i>	
<i>Contact Name &amp; Title:</i>	
<i>Telephone Number:</i>	
<i>Nature of Work:</i>	
<i>Reason Why Rejected:</i>	

<b><i>Company Name:</i></b>	
<b><i>Contact Name &amp; Title:</i></b>	
<b><i>Telephone Number:</i></b>	
<b><i>Nature of Work:</i></b>	
<b><i>Reason Why Rejected:</i></b>	

**PART C - CERTIFICATION** (to be completed by **ALL** Proposers)

I hereby certify that I have made a diligent effort to ascertain the facts with regard to the representations made herein and, to the best of my knowledge and belief, each firm set forth in this bid as a Disabled Veterans Business Enterprise complies with the relevant definition set forth in section 1896.61 of Title 2, and section 999 of the Military and Veterans Code, California Code of Regulations. In making this certification, I am aware of section 10115 *et seq.* of the Public Contract Code that establishes the following penalties for State Contracts:

Penalties for a person guilty of a first offense are a misdemeanor, civil penalty of \$5,000, and suspension from contracting with the State for a period of not less than thirty (30) days nor more than one (1) year. Penalties for second and subsequent offenses are a misdemeanor, a civil penalty of \$20,000 and suspension from contracting with the State for up to three (3) years.

**IT IS MANDATORY THAT THE FOLLOWING BE COMPLETED ENTIRELY; FAILURE TO DO SO WILL RESULT IN IMMEDIATE REJECTION.**

<b><i>Firm Name of Proposer:</i></b>	
<b><i>Signature of Person Signing for Proposer</i></b>	
<b><i>Name (printed) of Person Signing for Proposer</i></b>	
<b><i>Title of Above-Named Person</i></b>	
<b><i>Date</i></b>	

**End of RFP Form**