



Judicial Council of California, Administrative Office of the Courts

Public–Private Partnerships, New Long Beach Courthouse and Other Potential Courthouse Projects

Request for Proposals: Public–Private Partnership Consultants

The Administrative Office of the Courts, Office of Court Construction and Management seeks to identify one or more Consultants to provide strategic, financial and business analyses, advice and consulting services regarding the establishment of public-private partnerships for a project to deliver a new courthouse for the Superior Court of California, County of Los Angeles, in Long Beach, and potentially other courthouse projects.

July 13, 2007



ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF COURT CONSTRUCTION
AND MANAGEMENT

Cover Sheet

Date:

July 13, 2007

To:

Potential Consultants

From:

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

Subject:

Request for Proposals, Consulting Services
regarding Public-Private Partnerships for
One or More Projects, including a new
courthouse in Long Beach for the Superior
Court of California, County of Los Angeles,
and other Courthouse Projects

Action Requested:

You are invited to review and respond with a
Proposal

Project Title:

RFP number: **OCCM-070712-P3C**

Proposal Due Date and Time:

Proposals must be received by 2 p.m. on
July 31, 2007.

Send Proposals to/Contact:

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

*(Indicate Project Title on lower left corner of
envelope)*

solicitations@jud.ca.gov

1. BACKGROUND INFORMATION

The Judicial Council of California, chaired by the Chief Justice of California, is the 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 California's superior and appellate courts.

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

California's nine appellate court facilities are currently the responsibility of the state. The Trial Court Facilities Act of 2002 (Gov. Code, § 70301 et seq.) shifts responsibility for California's superior court facilities from the counties to the state. The current inventory of superior court facilities comprises over 450 court buildings containing over ten million usable square feet of space devoted to court occupancy.

Under the act, the Judicial Council has authority to “recommend to the Governor and the Legislature the amount proposed to be spent for projects paid for with money in the State Court Facilities Construction Fund.” (Gov. Code, § 70374(a).) In support of the Council, OCCM has developed a capital outlay plan for the courts, following an intensive 2-1/2 year facilities master planning effort. The capital outlay plan, which has been approved by the Judicial Council, can be reviewed at

http://www.courtinfo.ca.gov/programs/occm/documents/final_to_dof_5yr_plan_fy0809_07_06_01_http.pdf.

This Request for Proposals (RFP) and its Attachments A & B, a form of agreement for public-private partnership consulting services (for reference only, see below for details), Payee Data Record form, DVBE Participation Form, and any modification or addendum to this RFP, its Attachments, the form agreement or the and Payee Data Record form or DVBE Participation Form will be posted to <http://www.courtinfo.ca.gov/reference/rfp> (RFP Website).

2. PURPOSE OF THIS RFP

Based on submissions received from potential consultants (Proposers) in response to this RFP (Proposals), the AOC intends to create a pre-qualified pool of one or more firms from which the AOC will select prospective consultants on an as-needed basis (the Pre-Qualified List) to provide strategic, financial, feasibility, marketing and/or implementation consulting services with respect to the establishment of public-private partnerships (P3). More details regarding the consulting services to be provided can be found in Section 3.0, Scope of Work. The initial project for which a P3 is being considered is the development of a new courthouse for the Superior Court of California, County of Los Angeles, in Long Beach, which is described in Attachment A (the Initial Project). The AOC may proceed with other P3 projects in the future.

This RFP is the means for Proposers to submit their qualifications to the AOC and request selection as a service provider. If a firm or firms (Consultant(s)) is/are selected, it or they will be included on the Pre-Qualified List for consulting services for the Initial Project, as well as for consulting services for potential future P3 projects. The AOC may award consulting service contracts for such additional P3 projects to Consultants on the Pre-Qualified List without further soliciting bids or proposals. Alternatively, the AOC may issue a Request for Proposals or other solicitation document regarding such services for additional P3 projects, and limit the solicitation to Consultants on the Pre-Qualified List. However, the AOC is under no obligation to award a contract for P3 consulting services to a firm on the Pre-Qualified List, even if the firm responds to a future P3 project solicitation document.

The Pre-Qualified List will expire three years after its creation. A firm selected for inclusion on the Pre-Qualified List will remain on the Pre-Qualified List until any of the following occurs: 1) the list expires; 2) the firm requests in writing to be removed; 3) the firm loses its legal capacity to provide the services required by the AOC; 4) the AOC removes the firm from the Pre-Qualified List, with or without cause; or 5) the AOC terminates the Pre-Qualified List in its entirety. Inclusion on the Pre-Qualified List confers no right upon a firm, and the Pre-Qualified List is created solely for the convenience of the AOC.

The AOC reserves the right to reject any and all Proposals, in whole or in part, as well as the right to issue similar RFPs in the future. This RFP does not constitute an agreement or contract and does not create any obligation upon the AOC. Neither the AOC nor the State of California shall be responsible for any costs or expenses associated with a Proposer's response to this RFP.

A person, firm, or subsidiary thereof that is awarded a P3 consulting services agreement may not, within 12 months following completion of services under that agreement, submit a bid for, or be awarded a contract for, the provision of goods or services to the developer or any member of the developer's team regarding that P3 project. This prohibition also applies to the parent company and any other subsidiary of the P3 consulting firm's parent company, provided that the parent company or other subsidiary may submit a bid or be awarded a contract for related goods or services if, in the sole discretion of the AOC, adequate firewall or other segregation is in place between the P3 consulting firm and the other firm.

3. SCOPE OF SERVICES

The Consultant(s) selected will be asked to provide strategic, financial, feasibility, and marketing advice and consulting services to the AOC regarding the development and implementation of P3 court facilities projects, including necessary process development (the Services). The AOC anticipates some or all of the Services and phases set forth below will be required for P3 projects. The estimated length of each phase described below is based on anticipated timeframes applicable to the Initial Project. Timeframes relevant to each subsequent P3 project may vary.

The AOC anticipates that Services will include some or all of the following activities:

Planning Phase (approximately 5 months):

1. Guide development of project concept and objectives.
2. Prepare financial analyses and recommendations of project delivery alternatives that consider such items as delivery timeframes, allocation of risk, market conditions, land acquisition, utilization/disposition of existing assets, building and site design, legal and regulatory requirements, security, construction, commissioning, moving, operations and maintenance.
3. Recommend financial structure(s), considering debt and equity sources from capital markets and public funding vehicles.
4. Develop a model communications structure for the project.
5. Develop an organizational model for the project.
6. Assist in development of project performance expectations including benchmark criteria for total project life-cycle costs, project cost comparisons to traditional delivery and financing options, project risk assessments and allocations, utility/energy conservation requirements that meet or exceed state standards and court security operations cost controls and reductions goals.
7. Assess interest of potential providers of goods and services required in the development of the P3 project.
8. Prepare procedures and schedule for solicitation of providers of construction, development, and other services and goods required in the development of the P3 project (generally, Developers).
9. Develop evaluation criteria and selection procedures for Developers.

Solicitation of Developers Phase (approximately 3 months):

1. Prepare sections of Developer solicitation documents related to financing and business terms.
2. Identify potential responders to Developer solicitation documents.
3. Market solicitation document to potential responders.
4. Participate in pre-proposal meetings.

Evaluation of Developer Proposals (approximately 2 months):

1. Review proposals submitted with respect to specified solicitation document criteria, including financial and risk analysis.
2. Participate in interviews of firms responding to solicitation documents (potential Developer).
3. Prepare written and oral evaluations that include ability of potential Developers to perform, including risk analysis and financial analysis.

Award Phase (approximately 4 months):

1. Participate, with the AOC, in negotiations of agreements with selected potential Developers.

Implementation Phase (approximately 28 months):

1. Provide project implementation and benchmark achievement analyses as needed, including reviewing periodic progress reports and recommending action, during design and construction phases.

Coordination

The AOC anticipates designating some or all of the following professionals with respect to any P3 project, and Proposers are notified that the Services will include coordination with these professionals:

- AOC Project Manager – a single point of responsibility within the AOC will be identified with responsibility for all aspects of each P3 project.
- Architectural / Engineering – one or more firms may assist in the development of design requirements and performance specifications for each P3 project.
- Legal Counsel - one or more law firms will provide legal counsel necessary or desirable for each P3 project.

4. SOLICITATION SCHEDULE

The AOC has developed the following schedule of events with key dates for this solicitation issuance and consultant contract award. The solicitation and schedule are subject to change at the AOC's discretion at any time and without notice. Proposers / prospective Proposers are advised to visit the RFP Website frequently to check for modifications and addenda to this RFP, including this schedule.

Note: the AOC does not send notifications of modifications or addenda to this RFP, or this schedule, to Proposers / prospective Proposers and is not responsible for any failure of any Proposer / prospective Proposer to receive any notification of any change in a timely manner. It is the sole responsibility of the Proposer / prospective Proposer to remain apprised of changes to this RFP and this schedule.

4.1 RFP Schedule (all times local Pacific Standard Time):

No.	Events	Key Dates
1	Pre-Proposal / Project Review Teleconference Telephone Participants Dial: 866-837-1955	2:00 pm on July 24, 2007
2	Deadline for submission of Proposer's Requests for Clarifications, Modifications or Questions regarding the RFP	2:00 pm on July 25, 2007
3	Clarifications, Modifications and/or Answers to Questions posted to the RFP Website, http://www.courtinfo.ca.gov/reference/rfp (Estimated)	July 27, 2007
4	Proposals due at the AOC offices in San Francisco	2:00 pm on July 31, 2007
5	Announcement of Short List of Proposers to be Interviewed (Estimated)	August 14, 2007
6	If Scheduled, Interviews of Short-Listed Proposers in San Francisco (Estimated)	September 4,5,6
7	Notice of Intent to Award (Estimated)	September 18, 2007

5. REQUIREMENTS OF A RESPONSIVE PROPOSAL

Proposals should clearly and accurately demonstrate the specialized knowledge and extensive, successful experience required of the consultant firm for consideration. Responsive proposals should provide straightforward, concise information that satisfies the requirements noted below. Expensive bindings, color displays, and the like are not necessary. Emphasis should be placed on brevity, conformity to instructions, requirements of this RFP, as well as the completeness and clarity of content.

Proposals that do not meet technical requirements for a responsive Proposal as set forth herein may not receive consideration under this RFP. The determination as to whether or not a Proposal is responsive is in the sole discretion of the AOC. Submittals should be sent by

registered mail, certified mail or by hand delivery. Submittals received after the deadline may be rejected without review.

Proposers must submit five (5) copies in paper form of their Proposal, including a Cover Letter (identified in Tab 1 or the equivalent) and a Statement of Qualifications (“SOQ”) that contains all of the information described below. Each Proposal must be in a bound 8.5” x 11” booklet format, preferably using organizational tabs that correspond, in number and title, to the sections outlined below. Organizing Proposals into the tab order suggested below will not only help each Proposer achieve the proper emphasis, but will also facilitate review and evaluation. Attachments, except as noted, will not be accepted.

Proposers must also submit 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, and one (1) compact disc (CD) containing the complete SOQ (in pdf file format) and Payee Data Record form. The Payee Data Record form should not be bound into the booklets. Timely submission of the required numbers of the Cover Letter, SOQ, Payee Data Record form, and CD, are required for a responsive Proposal.

Prospective Proposers are advised to consult section 9 below “Confidential and Proprietary Information,” and to mark information submitted accordingly.

Tab 1. Cover Letter

The Cover letter must be no more than one page, and must be signed by an authorized representative of the Proposer. The Cover Letter must reference this RFP and confirm that all elements of the RFP have been read and understood and that the Proposer takes no exception to the materials provided. The Cover Letter must also include:

- 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 that the AOC can contact for additional information; and, if different,
- The name, telephone, fax, address, and e-mail address of the contracts management or legal staff person who is empowered to speak on contractual and policy matters.

Statements of Qualification must include the following information:

Tab 2. Firm Identification

Identify the type of type of ownership or legal structure of the firm (sole proprietor, partnership, corporation, joint venture, etc.); length of time the firm has been operating as the legal entity and length of time the firm has been providing the requested services; list proposed team comprised of the key members of Proposer’s firm to be assigned to the Services, including their roles and estimated participation in each phase of the Services;

attach an organizational team chart for the project (one page maximum) and a one page maximum firm description.

Tab 3. Resumes of Key Personnel

Include resumes of the key personnel that will perform the Services.

Tab 4. Sample Projects

Describe sample projects which best illustrate the firm's qualifications for the scope of the Services. Indicate any projects accomplished by current firm staff conducted while under the employment of others. Projects must be of similar complexity completed and demonstrate the Proposer's ability and experience to successfully perform the Services. Provide current contact information for all references for all projects listed.

Tab 5. Key Personnel

Identify participation of key personnel of the proposed team and their role in the sample projects from Tab 4.

Tab 6. Proposed Project Plan or Approach

Describe the firm's proposed approach to P3 processes, indicating strategies for issue identification and resolution, methodology for coordination of Services with AOC staff, and work by other professionals and firms engaged in a P3 project, as well as any other information the Proposer determines is pertinent. (Ten pages maximum).

Tab 7. General Qualifications

Provide general qualifications for the Proposer's office or branch office that will perform the Services, including the particular office's staffing levels by position and organizational structure.

Tab 8. Financial Information

Provide one copy of the firm's audited and already published financial statements for three annual periods preceding the due date for the Proposal. The information provided must, at a minimum, be that of an entity with the same legal name as that in which the firm intends to do business with the AOC. If desired, a firm may include information regarding its parent or subsidiary organizations.

Tab 9. Revenue Experience

Describe the professional services revenues received annually (averaged over the last 3 years) by the firm for similar or relevant consulting services.

Tab 10. Rates/Fee Structure

Provide hourly billing rates and any other charges for the Services. State clearly which service types to which the rates will apply. The hourly rate is intended to fully

compensate respondents for all Services. No additional expenses are allowed, including reproduction costs associated with the Services, travel, lodging, meals, miscellaneous and any other expenses related to the completion of the Services.

If the Proposer intends to charge on a basis other than hourly rates, the Proposer must provide a full explanation of its proposed pricing structure, as well as sufficient information regarding performance metrics built into this structure, including guaranteed or estimated staffing levels at otherwise applicable hourly rates, to enable the AOC to make a price-based comparison.

AOC will evaluate Proposals based on the proposed rates or fee structure applicable to the Initial Project, in accordance with the information provided in this RFP regarding the timeframe and Services anticipated with respect to the Initial Project.

The State of California requires contract participation goals of a minimum of three percent (3%) for disabled veteran business enterprises (DVBEs). Upon selection of a Consultant for a P3 project, the AOC will require that the selected Consultant demonstrate DVBE compliance and complete a DVBE Compliance Form in the form posted on the RFP Website. If it would be impossible for the selected Consultant to comply, explanation of why and demonstration of written evidence of a “good faith effort” to achieve participation would be required. Information about DVBE resources can be found on the Executive Branch’s 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.

6. EVALUATION OF PROPOSALS

The AOC will evaluate responsive Proposals using the following selection criteria, each to be weighted as indicated in the following chart. The AOC may, but is not obligated to, evaluate any Proposal submitted on the following selection criteria. Whether or not a Proposal meets the requirements for responsiveness is in the sole discretion of the AOC.

The AOC intends to select Proposer(s) that it considers will provide the best overall value to the AOC and the State of California, as determined by the AOC in its sole discretion, and expressly reserves the right to accept other than the lowest-hourly-rate or other lowest-cost offers.

POINTS	SELECTION CRITERIA
30	<p><u>Demonstrated Experience of the Firm:</u> Demonstrated experience of the firm in the providing similar consulting services on comparable projects.</p>
20	<p><u>Demonstrated Expertise of Personnel:</u> Demonstrated expertise and experience of key personnel proposed to provide Services.</p>

15

Availability of Resources:

Ability of Proposer to provide staff, resources and management necessary to provide the Services.

15

Proposed Approach to Providing Services:

The proposed approach shall demonstrate the Proposer's methods to provide the Services indicating a clear understanding of the purpose, service, scope and objectives of P3 projects.

20

Fee:

Proposed fee for the Services described in this RFP with respect to the Initial Project, based on hourly rates for estimated number of hours for key personnel, or an alternative fee structure which must be fully described in the Proposal.

- 6.1 Responsive Proposals will be evaluated by a panel of AOC staff. AOC staff may contact previous clients and other entities listed with respect to sample projects to verify the experience and performance of the Proposer, their key personnel, and their sub-consultants, if any.
- 6.2 Following this evaluation, one or more firms may be selected for additional interviews. The AOC reserves the right to interview any, all, or none of the Proposers. If held, the AOC will schedule interviews according to the schedule in section 4. of this RFP. AOC will post to the RFP Website a list of the firm or firms, if any, selected for interviews. Firms selected for interview will be notified of their interview time and place.
- 6.3 Following interviews, if any, AOC may select one or more firms for the Pre-Qualified List. The AOC will post the selection, if any, to the RFP Website.
- 6.4 A firm on the Pre-Qualified List may be selected as a Consultant for one or more P3 projects, pending successful negotiation of an agreement for P3 consulting services for the P3 project. If a satisfactory contractual agreement on services and compensation cannot be reached between the AOC and a selected Consultant within 30 calendar days of the notification of selection, the AOC reserves the right to proceed with negotiations with another firm.

7. ADDITIONAL INFORMATION

- 7.1 Proposers/prospective Proposers may submit questions to the AOC via e-mail no later than **July 25, 2007**. Contact to the AOC regarding this RFP shall be made only through the email address noted on the cover sheet of this RFP. Telephone calls will not be accepted. Additionally, Proposers and prospective Proposers and their sub-consultants, representatives, and lobbyists are asked not to contact the

Superior Court of Los Angeles County or any state governmental or judicial branch entity other than the AOC concerning this RFP.

- 7.2** The AOC cannot guarantee the amount or duration of the Services, nor which phases will be authorized for any particular P3 project. Project descriptions are subject to change, up to the time a contract is executed, at the sole discretion of AOC. A Consultant selected by the AOC for a P3 project will be retained for subsequent phases of that project, subject to the successful performance of Services, appropriation and allocation of funds for that project, passage of legislation necessary or desirable in the opinion of the AOC for the implementation of the project, and pursuant to the respective agreement for P3 consulting services.
- 7.3** The AOC reserves the right to reject any of Proposer's sub-consultants and ask that a different firm be proposed for consideration.

8. PROPOSED CONTRACT TERMS AND ADMINISTRATIVE RULES

Consultants selected for a P3 project will sign an agreement for P3 consulting services with the AOC in a form substantially similar to the standard agreement attached hereto, which will include terms appropriate for the project. The AOC reserves the right to modify or update this agreement in the interest of the AOC, in whole or in part at any time up to the negotiation of a specific agreement for P3 project Services.

By submitting a Proposal the Proposer and its key sub-consultants acknowledge that a) the project team will provide the Services as described in the Proposal; and b) the Proposer has no objection and is prepared to enter into a contract with AOC for the Services on the terms and conditions of the AOC's standard agreement. If a Proposer is not prepared to enter into a contract on the terms and conditions in the standard agreement, the Proposer must indicate its specific objection, and supply additional or alternate language acceptable to Proposer in its Proposal.

The Administrative Rules Governing Requests for Proposals, Attachment B hereto, are incorporated into this RFP. These rules apply to Proposers and Proposals submitted under this RFP, and to the evaluation of Proposals and selection of Consultant(s) for a Pre-Qualified List under this RFP.

9. CONFIDENTIAL OR PROPRIETARY INFORMATION

The AOC supports and is responsive to the public's need for information about the conduct of business within the judicial branch. Although the California Public Records Act (PRA) generally does not apply to the judicial branch, documents and information maintained by the AOC will be made available to the public in accordance with AOC policy. One copy of each Proposal will be retained for the AOC's files. If a Proposer considers that its Proposal contains material that is confidential and/or proprietary, the Proposer must clearly note or mark each section of material as confidential and/or proprietary. The AOC will determine whether such material meets the requirements for an exemption from disclosure. If so, that information will

not be disclosed pursuant to a request for public documents. If the AOC does not consider such material to meet the requirements for exemption from disclosure, the material will be made available to the public, regardless of the notation or markings.

If a prospective Proposer is unsure if its confidential and/or proprietary material would meet the requirements for an exemption from disclosure, the firm should contact the AOC for clarification before including such information in its Proposal.

ATTACHMENT A

Project Title:	Superior Court of California, County of Los Angeles—New Long Beach Courthouse
Project Location:	Long Beach CA
Project No.:	91-19-001
Project Description:	<p>The project consists of a new court facility with at least 31 courtrooms and all court support in a building that must comprise approximately 306,500 gross square feet for court operations to meet AOC Trial Court Facilities Standards, 2006 edition. For feasibility study purposes, it was assumed that a new court building would be a seven-story building with basement level secure parking, sallyport, and in-custody holding. Site improvements will include a limited amount of short-term surface parking, landscaping, and hardscape.</p> <p>The feasibility study is available at http://www.courtinfo.ca.gov/programs/occm/documents/final_la_long_beach_pfr_06_20_07.pdf.</p>
Estimated Construction Cost:	\$158,000,000 as of January 2007. This figure does not include escalation, contingency, land costs, parking, or the costs of CEQA or other potential regulatory associated costs, or costs of design, inspection, or construction administration.
Schedule	Estimated Start of Services: As soon as possible following Notice of Intent to Award.

Current Funding:	Authorization for Services is subject to authorization of the project in the California Budget Act for fiscal year 2007-2008
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End of Attachment A

ATTACHMENT B

JUDICIAL COUNCIL OF CALIFORNIA ADMINISTRATIVE OFFICE OF THE COURTS

ADMINISTRATIVE RULES GOVERNING REQUEST FOR PROPOSALS # OCCM-070712-P3C

A. General

The Request for Proposals (RFP), the evaluation of proposals, and the award of any contract shall conform to these Administrative Rules. A service provider's proposal is an irrevocable offer for 120 days following the deadline for its submission.

B. Errors/Amendments/Clarifications to the RFP

1. If a prospective service provider discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP, the prospective service provider should immediately give the AOC a written notice of the problem and request that the RFP be clarified or modified.
2. If a prospective service provider determines that one or more of the RFP's requirements, either as originally posted or as amended, is unfair, or unnecessarily onerous, or restrictive, or precludes less costly or alternative solutions, the prospective service provider may submit a written request that the RFP be modified, setting forth the recommended modification, and the prospective service provider's reasons for proposing the change.
3. Any request to clarify or modify the RFP must be submitted to the AOC by the proposal due date and time, and addressed to the contact person listed on the cover sheet to the RFP.
4. If prior to the proposal due date and time a prospective service provider submitting a proposal knows of or should have known of an error in the RFP but fails to notify the AOC of the error, the prospective service provider submits a proposal at its own risk. If the prospective service provider is awarded a contract for services, it will not be entitled to additional compensation, time to perform work, or any other advantage by reason of the error or, at the AOC's option, its later correction.
5. The AOC may modify the RFP for any reason prior to the proposal due date and time by posting an addendum to a publicly available website, provided prospective service providers have been directed to the particular website for RFP information.
6. 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.

C. Withdrawal and Resubmission/Modification of Proposal

A prospective service provider may withdraw its proposal at any time prior to the deadline for submitting proposals by notifying the AOC in writing of its withdrawal. The notice must be signed by the prospective service provider. The prospective service provider may thereafter submit a new or modified proposal, provided that it is received at the AOC no later than the proposal due date and time. 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. Nothing in this paragraph affects the ability of the AOC to consider additional information submitted via interview, reference, or otherwise, as set forth in these Administrative Rules.

D. Evaluation Process

1. An evaluation team will review all proposals that are received to determine the extent to which they comply with the RFP's requirements.
2. AOC reserves the right to review the proposals, as well as supplemental information collected in the course of the evaluation process, including but not limited to information submitted to clarify any information in the proposal, and information gained in interviews and reference checks.
3. Proposals that fail to meet requirements of the RFP may be rejected. However, AOC reserves the right to evaluate any proposal submitted, regardless of whether such proposal fails to meet any requirement of the solicitation document.
4. Proposals that in the opinion of the AOC contain false or misleading statements may be rejected. During the evaluation process, the AOC may require a prospective service provider's representative to answer questions with regard to its proposal. Failure to demonstrate that any statement or representation made in a proposal are in fact true may be cause for rejection of a proposal, or of deeming the proposal non-responsive to the RFP. Failure of a prospective service provider to respond to questions is sufficient cause to reject a proposal.

E. Rejection of Proposals

The AOC may reject any or all proposals and may or may not waive any deviation or defect in a proposal. The AOC's waiver of a deviation or defect shall in no way modify the RFP or excuse a prospective service provider from full compliance with the RFP's specifications. The AOC reserves the right to accept or reject any or all of the Services in a proposal, to award a contract for Services or select for the Pre-Qualified List a service provider for all or part of the Services,

to award a contract for any or all of the Services, or negotiate any or all items with prospective service providers if it is deemed in the AOC's best interest. Moreover, the AOC reserves the right to make no selection from among respondents to this RFP.

F. Award of Contract

1. Award of the contract, if made, will be in accordance with the RFP to a responsible service provider determined by the AOC to be substantially compliant with all the requirements of the RFP and any addenda thereto, except deviations or defects waived by the AOC. Determination of whether a proposal substantially complies with the RFP requirements is in the sole discretion of the AOC.
2. Questions regarding the AOC's award of any business on the basis of proposals submitted in response to the RFP, or on any related matter, should be addressed to the contact person listed on the cover sheet of the RFP.

G. Execution of Contracts

Prospective service providers selected for the Pre-Qualified List, and then selected to provide Services on a particular project, will be required to execute an AOC standard form contract, and will not be able to use their own contract form.

H. Protest Procedure

1. General. Failure to comply with the protest procedures set forth in this Section H will render a protest inadequate and noncompliant, and will result in rejection of the protest.
2. Protest Prior to Proposal Due Date and Time. An interested party that is an actual or prospective service provider with a direct economic interest in the procurement may file a protest based on allegedly restrictive or defective specifications or other improprieties in the solicitation process that are apparent, or should have been reasonably discovered prior to its submission of a proposal. Such protest must be received prior to the proposal due date and time. The protestor must have exhausted all administrative remedies discussed in these Administrative Rules prior to submitting the protest. Failure to do so may be grounds for denying the protest.
3. Protest After Selection of Pre-Qualified List. A prospective service provider that submitted a proposal may protest the creation of a Pre-Qualified List based on allegations of improprieties occurring during the evaluation process, if the protest meets all of the following conditions:
 - a. The prospective service provider has submitted a proposal that it believes to be responsive to the RFP;
 - b. The prospective service provider believes that its proposal meets the administrative and technical requirements of the RFP, and proposes services of proven quality and performance;

- c. The service provider believes that its proposal offers services at a competitive cost to the AOC; and,
- d. The prospective service provider believes that the AOC has incorrectly chosen not to select it for inclusion on a Pre-Qualified List.

Protests must be received no later than five (5) business days after the AOC posts the selection of the Pre-Qualified List as specified in the RFP.

4. Protest of Award Following Selection of Pre-Qualified List. A prospective service provider that was selected for inclusion on a Pre-Qualified List of service providers may protest the award of a contract for the same type of services to a different service provider based on allegations of improprieties occurring during the evaluation process, if the protest meets all of the following conditions:

- a. The AOC used a further solicitation document to select the service provider for the particular project;
- b. The prospective service provider submitted a proposal that it believes to be responsive to the solicitation document;
- c. The prospective service provider believes that its proposal meets the administrative and technical requirements of the solicitation document and proposes services of proven quality and performance; and,
- d. The prospective service provider believes that the AOC has incorrectly selected another prospective service provider submitting a proposal for an award.

Protests must be received no later than five (5) business days after the AOC posts the notice of intent to award, or other indication of selection of a service provider for the particular project.

5. Form of Protest. Protests must be submitted to the contact person listed on the cover sheet to the RFP, who will forward the protest to an appropriate contract officer for review and determination. An appropriate contract officer is one who was not, or will not be, a voting member of the evaluation team for the RFP. Protests must meet the following requirements to be considered:

- 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 must include the name, address, telephone and facsimile numbers, and email address of the party protesting or their representative;
- c. The protest must include the title of the RFP under which the protest is submitted;
- d. The protest must include a detailed description of the specific legal and factual grounds of protest, together with any supporting documentation; and
- e. The protest must include the specific ruling or relief requested.

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

6. Determination of Protests Prior to Proposal Due Date and Time. Upon receipt of a timely and proper protest based on allegedly restrictive or defective specifications or other improprieties in the solicitation process that are apparent, or should have been reasonably discovered prior to the submission of a proposal, the AOC will provide a written determination to the protesting party prior to the proposal due date and time. If required, the AOC may extend the proposal due date and time to allow for a reasonable time to review the protest.

If the protesting party elects to appeal a decision on its protest, the protesting party will follow the appeals process outlined below. The AOC, at its sole discretion, may elect to withhold the contract award until the protest is resolved or denied, or proceed with the award and implementation of the contract.

7. Determination of Protests of Selection of Pre-Qualified List and of Award Following Selection of Pre-Qualified List. Upon receipt of a timely and proper protest, the AOC will investigate the protest and will provide a written response to the protesting party within a reasonable time. If the AOC requires additional time to review the protest and is not able to provide a response within ten (10) business days, the AOC will notify the protesting party. The AOC, at its sole discretion, may elect to withhold the selection, or contract award, until the protest is resolved or denied, or proceed with the selection, or the award and implementation of the contract. If the protesting party elects to appeal the decision on its protest, the protesting party will follow the appeals process outlined below.
8. Appeals Process. The contracting officer's decision on the protest shall be considered the final action by the AOC unless the protesting party thereafter seeks an appeal of the decision by filing a request for appeal with the AOC's Business Services Manager. Appeals must be submitted to the contact person listed on the cover sheet to the RFP within five (5) business days of the issuance of the AOC's determination on the protest.

The justification for appeal is specifically limited to:

- a. Facts and/or information related to the protest, as previously submitted, that were not available at the time the protest was originally submitted;
- b. The contracting officer's determination on 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. The decision of the contracting officer was in error of law or regulation.

The protesting party's request for appeal shall include:

- a. The name, address telephone and facsimile numbers, and email address of the protesting party filing the appeal or their representative;
- b. A copy of the contracting officer's decision;
- c. The legal and factual basis for the appeal; and
- d. The ruling or relief requested.

Issues that could have been raised earlier will not be considered on appeal.

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

9. Protest Remedies. If the protest is upheld, the AOC will consider all circumstances surrounding the procurement in its decision for a fair and reasonable remedy, including the seriousness of the procurement deficiency, the degree of prejudice to the protesting party or to the integrity of the competitive procurement system, the good faith efforts of the parties, the extent of performance, the cost to the AOC, the urgency of the procurement, and the impact of the recommendation(s) on the AOC. The AOC may pursue any combination of the following remedies:
 - a. Terminate the contract for convenience;
 - b. Re-solicit the requirement;
 - c. Issue a new solicitation;
 - d. Refrain from exercising options to extend the term under the contract, if applicable;
 - e. Award a contract consistent with statute or regulation; or
 - f. Apply other such remedies as may be required to promote compliance.

Notwithstanding that a protest is upheld, AOC reserves the right, upon consideration of the circumstances as set forth in this section, to proceed with the protested selection or award of contract, and to implement a contract with the firm selected or awarded the contract.

I. News Releases

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

J. Disposition of Materials

All materials submitted in response to this RFP will become the property of the AOC and will be returned only at the AOC's option and at the expense of the prospective service provider

submitting the material. One copy of a submitted proposal will be retained for official files, subject to disclosure in accordance with the RFP.

K. Payment

1. Payment terms will be specified in any agreement that may ensue as a result of this RFP.
2. **UNDER NO CIRCUMSTANCES WILL THE AOC PAY RETAINERS OR MAKE ANY OTHER ADVANCE PAYMENT FOR SERVICES.** Payment is normally made based upon satisfactory completion of tasks as provided in the agreement between the AOC and the selected service provider. The AOC reserves the right to accept alternative billing methods set forth in the selected service provider's proposal, or negotiate others. The AOC may withhold ten percent of each invoice, and may withhold payment of invoices, until receipt and acceptance of the service or work product. The amount withheld may depend upon the length of the project and the payment schedule provided in the agreement between the AOC and the selected service provider.

End of Attachment B