



## JUDICIAL COUNCIL OF CALIFORNIA

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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### ADDENDUM NO. 2

RFP #JBCP-2016-03-JT  
RFP MODIFICATIONS

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This Addendum No. 2 contains the following documents:

- A revised Request for Proposal (RFP) document for Program Management Support Services which corrects and clarifies submittal requirements of the RFP.
- A revised *Exhibit E– Fee Schedule and Method of Payment* to the Form of Agreement which has been modified to align compensation for Basic Services to a fixed cost deliverable method and establishes a reimbursement schedule for allowable expenses.
- Cost Proposal Form – A new document provided as Attachment 4 to the RFP and must be used for submission of your Cost Proposal.

The above documents are to replace those documents issued on March 2, 2016 as applicable.



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# REQUEST FOR PROPOSALS

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**Date:**

March 2, 2016 – Original  
March 30, 2016 – Reissue

**Send Proposal to:**

Judicial Council of California  
Attn: Ms. Nadine McFadden  
455 Golden Gate Avenue, 6<sup>th</sup> Floor  
San Francisco, CA 94102

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

**To:**

Construction Program Management Firms

**Project Title:**

Program Management Support Services

**Contact:**

capitalprogramsolicitations@jud.ca.gov

**RFP Number: JBCP-2016-03-JT**

<b>RFP SCHEDULE-REVISED</b> (Subject to change at the Judicial Council's discretion)		<b>DATES / TIMES (DST)</b>
1	Pre-Proposal <b>Meeting &amp; Teleconference.</b> <i>All parties to see RFP §1.4 for specific information</i>	<b>Wed, March 16, 2016 at 10:00 AM</b>
2	Deadline for submittal of Firm's requests for clarifications, modifications or questions regarding the RFP	<b>Wednesday, March 23, 2016</b>
3	Modifications and/or responses to questions posted on the Judicial Council website: <a href="http://www.courts.ca.gov">http://www.courts.ca.gov</a>	<b>Monday, March 28, 2016</b>
4	<b>Submittal Deadline for Statement of Qualifications</b>	<b>Friday, April 8, 2016 at 3:00 PM</b>
5	Notice of Short-List Firms is posted on the Judicial Council website: <a href="http://www.courts.ca.gov">http://www.courts.ca.gov</a>	<b>Tuesday, April 19, 2016</b>
6	Interviews of Short Listed Firms <i>(Specific dates, times and places to be determined)</i>	<b>Wednesday &amp; Thursday April 27 and 28, 2016</b>
7	Notice of Selected Firms (Estimated)	<b>Friday, May 6, 2016</b>

## 1. INTRODUCTION AND PURPOSE OF THIS RFP

- 1.1. **Judicial Council.** The Judicial Council of California (“Judicial Council”), chaired by the Chief Justice of California, is the primary policy making body of the California judicial system. The Judicial Branch Capital Program Office is responsible for the planning, design and construction of court facilities for the Superior and Appellate Courts of California (“Capital Program”).
- 1.2. **Proposals.** The Judicial Council, through this Request for Proposal(s) (“RFP”) is soliciting proposals from qualified persons, firms, partnerships, corporations, associations or professional organizations (“Firm(s)”) to perform construction program management services.
  - 1.2.1. **Qualified Firm.** A qualified Firm means a firm that has demonstrated competence and qualifications to provide construction program management and reporting services necessary to plan, design, and construct court facilities, and to assist the Judicial Council to independently develop and maintain a database of information that will support the evaluation and monitoring of its Capital Program. This opportunity is focused on assisting in the management of the Capital Program and is not intended to be for construction management services on individual projects.
  - 1.2.2. **Construction Program Management.** For the purposes of this RFP, construction program management is defined as the application of professional construction program management techniques applied to a set of related construction projects in a coordinated fashion to obtain control and outcomes that would not be available if the projects were only managed individually.
  - 1.2.3. **Term.** The Judicial Council intends to award a Contract for five (5) years and reserves the right to award additional term(s) up to a total Term of ten (10) years for the entire Term of this Agreement including any extensions.
- 1.3. The construction program management services being sought do **not** include responsibility to be a construction manager at risk, general contractor, or construction manager for the construction of any building. The Judicial Council seeks to contract with a single firm to provide the desired construction program management services. A list of the current Projects included within the construction program is attached hereto as **Exhibit D** to the Agreement (see below). Projects may be added or deleted from this list at the sole discretion of the Judicial Council.
- 1.4. **Pre-proposal Meeting.** All Firms interested in submitting a Proposal are requested to attend the Pre-proposal meeting at the date-time indicated in the RFP Schedule above. The Judicial Council will permit Firms to alternately attend this pre-Proposal meeting via teleconference.
  - **San Francisco Meeting** to be held in the Hiram Johnson State Office Building, 455 Golden Gate Avenue (between Polk & Larkin Streets), 3rd Floor “Redwood Room”; participants shall plan sufficient time for travel, parking and lobby/security screening
  - **Teleconference** participants to dial **877-820-7831**, followed by passcode **115732**.
- 1.5. **Questions.** Firms may submit requests for clarifications, modifications or questions to the Judicial Council via e-mail to [CapitalProgramSolicitations@jud.ca.gov](mailto:CapitalProgramSolicitations@jud.ca.gov) no later than the date specified in the RFP Schedule. *Please indicate the RFP number in the subject line of your email submittal.* Contact with the Judicial Council may only be made through this email address; telephone calls will not be accepted.

- 1.6. **Addenda.** The RFP and all addenda will be posted at <http://www.courts.ca.gov/rfps.htm>. **Firms must monitor that website for all information regarding this RFP.** The Judicial Council is not responsible for sending individual notification of changes or updates. It is the sole responsibility of the Firms to remain apprised of changes to the RFP.
- 1.7. **Judicial Council's Administrative Rules Governing RFP's (NON-IT SERVICES).** By submitting its Proposal, each Firm acknowledges and agrees to follow the Judicial Council's Administrative Rules Governing RFPs (Non-IT Services) attached hereto as **Attachment No. 1** to this RFP.

## 2. FORM OF AGREEMENT

### 2.1. Agreement.

- 2.1.1. Attached hereto as **Attachment No. 3** to this RFP is the Judicial Council's form of Agreement for Capital Program Management Services ("Agreement"), including the indemnification provision that the Judicial Council will include in that Agreement. The Judicial Council reserves the right to modify or update the Agreement at any time until an award and execution of the Agreement with the selected Firm. By submitting its Proposal, the Firm acknowledges that it has no objection to the form of Agreement.
- 2.1.2. The Agreement includes the following Exhibits, which are referred to in this RFP.
- 2.1.2.1. Exhibit A: Standard Provisions
  - 2.1.2.2. Exhibit B: Scope of Work for Basic Services
  - 2.1.2.3. Exhibit C: Scope of Work for Extra Services
  - 2.1.2.4. Exhibit D: Current List of Projects Within the Capital Program
  - 2.1.2.5. Exhibit E: Fee Schedule and Method of Payment
  - 2.1.2.6. Exhibit F: Key Personnel
  - 2.1.2.7. Exhibit G: Subconsultants to Program Manager
  - 2.1.2.8. Exhibit H: General Certifications Form
  - 2.1.2.9. Exhibit I: Iran Contracting Act Certification
  - 2.1.2.10. Exhibit J: Darfur Contracting Act Certification
  - 2.1.2.11. Exhibit K: DVBE Participation
  - 2.1.2.12. Exhibit L: State of California Payee Data Form
  - 2.1.2.13. Exhibit M: Submittal Form for Vendor Questions
- 2.2. **Compensation.** Compensation for the Services may be paid on any one of the options as indicated in the Agreement.
- 2.3. **DVBE Participation.** The Judicial Council requires contract participation of a minimum of three percent (3%) of the contract value for disabled veteran business enterprises (DVBEs). Information about DVBE resources can be found on the Executive Branch's website at <http://www.dgs.ca.gov/pd/Programs/OSDS.aspx>, or by calling the Office of Small Business and DVBE Certification at 916-375-4940. Please note that DVBE documentation (Exhibit K) is not required to be submitted with the proposal, but is to be submitted only by the Firm selected for Services.

### 3. SCOPE OF SERVICES

- 3.1 **Responsibilities and Services of Selected Firm.** The labor, materials, supervision, services, tasks, and work to perform construction program management services for the Capital Program (“Services”) that the selected Firm will be required to perform are set forth in **Exhibit B (Basic Services)** and **Exhibit C (Extra Services)** to the Agreement.
- 3.2 The Firm must be technically and financially capable of providing all of the Services to assist in managing the planning, design, construction, and turnover of the courthouse construction program. The Firm shall be the Judicial Council's representative and shall work under the direction of a Judicial Council Capital Program Director and/or designated Judicial Branch Capital Program Manager.
- 3.3 Specific areas of concentration are to provide or assist the Judicial Branch Capital Program Office in providing specific the specific Basic Services as further defined in **Exhibit B** to the Agreement and Extra Services as further defined in **Exhibit C** to the Agreement.
- 3.4 **Compliance with Judicial Council Manuals:** In its performance of all Services, the Firm will be required to ensure that its practices, procedures, directions and actions are compliant and consistent with the Council’s policies, procedures, and processes, including the most recent Program Management Manual, and most recent California Trial Court Facility Standards. The Firm will be required to have at least one copy of each of these manuals available for reference at all times.

### 4. STATEMENT OF QUALIFICATIONS

- 4.1. Each Firm’s Proposal should clearly and accurately demonstrate specialized knowledge and experience required for consideration.
- 4.2. This RFP is not a formal request for bids or an offer by the Judicial Council to contract with a Firm responding to this RFP. The Judicial Council reserves the right to amend this RFP as necessary. The Judicial Council reserves the right to seek proposals from, or to contract with, any Firm not participating in this process for any of the projects listed in **Exhibit D** to the Agreement. The Judicial Council shall not be responsible for the costs of preparing any Proposal in response to this RFP.
- 4.3. **Confidentiality / Disposition of Proposals.** All materials submitted in response to this RFP will become the property of the Judicial Council and will be returned only at the Judicial Council’s option and at the expense of the Firm submitting the Proposal. One copy of each Proposal will be retained by the Judicial Council for its official files, and will become a public record. California Judicial Branch entities are subject to rule 10.500 of the California Rule of Court, which governs public access to judicial administrative records  
(see [www.courts.ca.gov/cms/rules/index.cfm?title=ten&linkid=rule10\\_500](http://www.courts.ca.gov/cms/rules/index.cfm?title=ten&linkid=rule10_500)).  
If information submitted in a Proposal contains material noted or marked as confidential and/or proprietary that, in the Judicial Council’s sole opinion, meets the disclosure exemption requirements of Rule 10.500, then that information will not be disclosed upon a request for access to such records. If the Judicial Council finds or reasonably believes that the material so marked is not exempt from disclosure, the Judicial Council will disclose the information regardless of the marking or notation seeking confidential treatment.

#### 4.4. Submittal [Revised]

- 4.4.1. Firm’s proposal shall be submitted in 2 (two) parts: the technical proposal and the

cost proposal

- 4.4.2. Submit one (1) original and five (5) copies in paper form of Firm's Technical Proposal. Firm's Technical Proposal shall be provided in a bound 8.5" x 11" booklet format, using tabs to divide each section as indicated herein.
- 4.4.3. Submit one (1) original and five (5) copies in paper form of the Firm's Cost Proposal, Attachment 4, providing the information required in Section 4.6 Cost Proposal. The original Cost Proposal must be signed by an authorized representative of the Firm. The Cost Proposal (original and five (5) copies) must be placed in a single sealed envelope, labeled with the Firm's name, the RFP number and "Cost Proposal."
- 4.4.4. Submit one (1) CD or USB flash drive of the entire Proposal. The electronic files must be in PDF, Word, or Excel formats.
- 4.4.5. Firm's Proposal shall be submitted to the Judicial Council as follows:
  - Judicial Council of California
  - Branch Accounting & Procurement
  - Attn: Ms. Nadine McFadden
  - 455 Golden Gate Avenue, 6<sup>th</sup> Floor
  - San Francisco, CA 94102
  - (Indicate the RFP Number and Title on lower left corner of envelope)*
- 4.4.6. Firms assume all risk of loss regarding any delivery method it chooses to use, and the Judicial Council shall not be held responsible for any failure of any delivery service/method. Firms are solely responsible for ensuring delivery to the appropriate location no later than the date and time specified. The Judicial Council will return unopened, any Proposal received after the time specified in the most current RFP Schedule
- 4.4.7. Proposals submitted via email will **not** be considered.
- 4.5. **Technical Proposal Format and Content.** Technical Proposal must be concise, well organized, and demonstrate Firm's qualifications. Proposals shall be formatted as outlined below. Proposals shall be no longer than **sixty (60) single-sided pages**, 8-1/2" x 11" paper, inclusive of résumés, forms, and pictures, and tabbed according to the numbering system reflected below with consecutive page numbers.
  - 4.5.1. **Letter of Interest (Tab 1)** – A dated Letter of Interest must be submitted, including the legal name of the Firm, address, telephone and fax numbers, and the name, title, and signature of the person(s) authorized to submit the Proposal on behalf of the Firm. The Letter of Interest should provide a brief statement of Firm's experience and indicate the unique background and qualities of the Firm, its personnel, and its sub-consultants. *Each Firm must indicate that it accepts all the terms conditions of the Agreement, and/or appropriate choice indicated on submitted Attachment #2.*
  - 4.5.2. **Table of Contents (Tab 2)**– A table of contents of the material contained in the Proposal should follow the letter of interest.
  - 4.5.3. **Executive Summary (Tab 3)** – The executive summary should contain an outline of Firm's construction program management approach, along with a brief summary of Firm's qualifications.
  - 4.5.4. **Firm Information (Tab 4)** – Provide a comprehensive description of the

construction program management services offered by Firm. The description should include the following:

- 4.5.4.1. **Firm History.** Provide a brief history of Firm, and, if a joint venture, of each participating Firm, each participating Firm's role(s) and responsibility(ies) and the history of the joint venture. Identify legal form, ownership, and senior officials of company(ies). Describe number of years in business and types of business conducted.
- 4.5.4.2. ~~Licensure. Provide documentation demonstrating that Firm is a currently licensed architect, a registered professional engineer or a licensed contractor.~~
- 4.5.4.3. **Firm Philosophy.** Describe Firm's philosophy and how Firm intends to work with the Judicial Council's designated staff to perform the Services to develop construction program management techniques and responses related to the unique challenges of Judicial Council's requirements.
- 4.5.4.4. **Key Personnel.** Provide a list of Key Personnel by title indicated in section 4.6.3, Table 1 below. Include resumes of key personnel who would be performing Services for the Judicial Council including, without limitation, the primary engagement executive(s), the primary engagement manager(s), the primary expert(s) in the areas of cost control, scheduling, records management, and/or comparable positions. Specifically, define the role of each person and outline his or her individual experience and responsibilities. Indicate the person who will serve as Program Manager serving as the primary contact for the Judicial Council Capital Program Director.
- 4.5.4.5. **Subconsultants.** Provide a list of any subconsultants. Include firm's history and resumes of key personnel who will be performing services for the Judicial Council. Specifically, define the role of each subconsultant and indicate Firm's key personnel responsible for subconsultant's performance.
- 4.5.4.6. **Financial Statements.** Provide one original (preferred) or copy of Firm's audited and already published financial statements for three (3) annual accounting periods preceding the SOQ Due Date. The statements shall be in the same legal name as that in which Firm intends to do business with the Judicial Council.
- 4.5.4.7. **Claims.** Provide a statement of ALL claims made by clients for inadequate work or professional misfeasance filed against Firm in the past five (5) years, not including claim(s) that are related to personal injury, or strictly personnel claim(s). Include claims filed against your Firm's parent organization, if applicable. Briefly indicate the nature of the claim(s) and the resolution, if any, of the claim(s). If your Firm has more than twenty (20) claims to report, please state how many claims there are, but limit providing statements to only the **TWENTY (20) MOST RECENT** claims.
- 4.5.4.8. **References.** Include letters of reference or testimonials, if available. Firm should limit letters of references or testimonials to no more than ten (10).
- 4.5.4.9. **Continuing Education.** Indicate ongoing commitment to professional education of staff, total number of permanent employees, and any other data that may assist the Judicial Council in understanding Firm's qualifications and expertise.

4.5.4.10. **Certifications.** Complete Exhibit H through Exhibit J that are attached to the form of Agreement (Attachment No. 3 to this RFP).

**4.5.5. Prior Relevant Experience (Tab 5).**

4.5.5.1. Describe Firm's experience in providing construction program management services to construction programs similar to the Judicial Council's program. Include programs that are within political environments including facilitation of the requirements of designated stakeholders, internal control functions, state agencies, and the legislature in the program planning and management process.

4.5.5.2. Identify similarly-situated construction programs for public entities for which your Firm has provided construction program management services in the past three (3) years. Limit response to no more than the **FIVE (5) MOST RECENT** programs. Include the following information for each program, as applicable:

- 4.5.5.2.1. Name of construction program and program owner or sponsor,
- 4.5.5.2.2. Scope of construction program and description of services provided,
- 4.5.5.2.3. Contact person and telephone number at construction program owner/sponsor,
- 4.5.5.2.4. Proposing Firm's person in charge of each construction program managed,
- 4.5.5.2.5. Dollar value of each construction program managed,
- 4.5.5.2.6. Any litigation that alleged errors or omissions by your Firm committed in providing program management services to the construction program, if any. Provide information related to the issues in the litigation, the status of litigation, names of parties, and the outcome.

4.5.5.3. Provide a description of your Firm's capability as it relates to each portion of the Services.

4.5.5.4. Describe how your Firm would add value to a specific construction program and the process for doing so. Include examples of situations from comparable construction programs where the owner realized tangible value.

4.5.5.5. Describe your Firm's approach to document management and control necessary to integrate and speed communication of critical construction program information and data.

4.5.5.6. Describe the types of problems your Firm has encountered on similar construction programs, and explain what your Firm did to resolve the problems and what your Firm would do differently to avoid similar problems on future engagements

4.5.5.7. Describe Firm's current workload and how your Firm could accommodate the scope of work set forth in this RFQ and the Agreement

4.5.6. **Conflict of Interest (Tab 6).** If applicable, provide a statement of any recent,

current, or anticipated contractual obligations that relate to similar work that may have a potential to conflict with the Firm's providing the Services to the Judicial Council.

- 4.5.7. **Payee Data Record (Tab 7).** Provide one (1) completed and signed Payee Data Record Form. Indicate the exact legal name under which the Firm proposes to contract with the Judicial Council.
- 4.5.8. **Additional Information (Tab 8).** Provide any additional information, options or features related to Firm's ability to provide the Services that Firm believes the Judicial Council will find helpful in the Judicial Council's evaluation and selection process.

**4.6 Cost Proposal:** The Cost Proposal for services set for under Exhibit B-Scope of Work (Basic Services) shall be submitted as set forth below utilizing the Cost Proposal Form provided as Attachment 4 to the Request for Proposal.

- 4.6.1 Deliverable 2.2.1 *Program Management Services*. Basis of Cost Proposal.
- 4.6.2 Deliverable 2.2.2 *Capital Program Progress Report*. Basis of Cost Proposal as follows:
  - a. Deliverable 2.2.2.1 through 2.2.2.3
  - b. Deliverable 2.2.2.4
  - c. Deliverable 2.2.2.5
- 4.6.3 Deliverable 2.2.3 *Document Aggregation and Organization*. Basis of Cost Proposal as follows:
  - a. Deliverable 2.2.3.1 through 2.2.3.4
  - b. Deliverable 2.2.3.5
  - c. Deliverable 2.2.3.6
  - d. Deliverable 2.2.3.7
- 4.6.4 Deliverable 2.2.4 *Change Order Report*. Basis of Cost Proposal as follows:
  - a. Deliverable 2.2.4.1 through 2.2.4.3
  - b. Deliverable 2.2.4.4
  - c. Deliverable 2.2.4.5
  - d. Deliverable 2.2.4.6
  - e. Deliverable 2.2.5.7
- 4.6.5 Deliverable 2.2.5 *Master Schedule Template*. Basis of Cost Proposal as follows:
  - a. Deliverable 2.2.5.1 through 2.2.5.3
  - b. Deliverable 2.2.5.4
  - c. Deliverable 2.2.5.5
  - d. Deliverable 2.2.5.6
  - e. Deliverable 2.2.5.7
- 4.6.6 Deliverable 2.2.6 *Benchmark Report*. Basis of Cost Proposal as follows:
  - a. Deliverable 2.2.6.1 through 2.2.6.3
  - b. Deliverable 2.2.6.4
  - c. Deliverable 2.2.6.5
- 4.6.7 Deliverable 2.2.7 *Budget Management Plan*. Basis of Cost Proposal as follows:
  - a. Deliverable 2.2.7.1 through 2.2.7.3
  - b. Deliverable 2.2.7.4
  - c. Deliverable 2.2.7.5

- 4.6.8 Deliverable 2.2.8 *Program Responsibility Matrix*. Basis of Cost Proposal as follows:
- Deliverable 2.2.8.1 through 2.2.8.2
  - Deliverable 2.2.8.3
  - Deliverable 2.2.8.4

- 4.6.9 Deliverable 2.2.9 *Project Responsibility Matrix*. Basis of Cost Proposal as follows:
- Deliverable 2.2.9.1 through 2.2.9.2
  - Deliverable 2.2.9.3
  - Deliverable 2.2.9.4

4.7 Cost Proposal. For services required under Exhibit C – Scope of Work (Extra Services) will be contracted on an “as and when needed basis” and will be paid on a time and materials basis including reimbursable transportation, meals, lodging and miscellaneous expense. The Firm’s Cost Proposal must propose the hourly rates for each job title of key personnel (both Firm and subconsultants) for the categories provided on the Cost Proposal Form (Attachment#4) to the Request for Proposal.

## 5. SELECTION & EVALUATION PROCESS

5.1. **References.** The Judicial Council may contact any reference listed by your Firm to verify the experience and performance of your Firm, key personnel and sub-consultants.

### 5.2. Evaluation of Proposals.

The Judicial Council will evaluate proposals using the following criteria:

<i>POINTS</i>	<i>TECHNICAL CRITERIA</i>
20	Demonstrated Experience of the Firm, its team and its key personnel in providing construction program management services for similar programs during the past five years.
30	Demonstrated record that Firm has delivered high quality construction program management services, and has an approach to service delivery that will result in effective program management.
20	Demonstrated technical abilities of Firm for scheduling, budgeting, cost estimating, document control, and satisfying client requirements and goals.
30	Cost proposal

5.3. **Short-List.** An evaluation panel composed of predominantly Judicial Council staff will review and score the proposals, based on the selection criteria, and establish a list of Firms to interview (“Short-List”). The Judicial Council intends that the Short List will include the three (3) most highly-evaluated Firms.

5.4. **Interview.** The Judicial Council will post the Short List on its website at: <http://www.courts.ca.gov>. Firms on the Short List will be notified directly of their interview date, time and location. That notice will be posted by email to the contact person’s email address provided in the submittal package. Interviews may be held at any or all of the Judicial Council offices in San Francisco, Burbank and Sacramento at the sole determination of the Judicial Council.

5.5. **Selection:** The Judicial Council intends to award the contract to the highest ranked firm as determined by the evaluation panel after its evaluation of the written proposals, the results of

the interviews, and if appropriate the results of reference checks, and in the form of the Agreement attached hereto as **Attachment No. 2**, and the following process:

- 5.5.1. The Judicial Council Capital Program Director will notify the most highly evaluated Firm of its intent to award a contract and will then work to negotiate a final contract and cost for the contract with the Firm.
- 5.5.2. Should the Capital Program Director be unable to negotiate a satisfactory contract with the most qualified Firm, the Director will formally terminate the negotiations, and will negotiate with the remaining most highly evaluated Firms in order of their qualifications, and continue negotiations until an agreement is reached.
- 5.6. The Judicial Council will award a contract for the Services to one (1) single Firm to provide the Services.
- 5.7. The Judicial Council intends to award a Contract for five (5) years and reserves the right to award additional term(s) up to a total Term of ten (10) years for the entire Term of this Agreement including any extensions. The Firm may only increase its Fee pursuant to the provisions in **Exhibit E** to the Agreement.
- 5.8. **Preclusion.**
  - 5.8.1. The Judicial Council will not select a Firm to provide the Services if that Firm is already under contract with the Judicial Council and is performing as a construction manager-at-risk, prime construction contractor, or design/builder on any construction project in the course of design or construction.
  - 5.8.2. While under contract and performing the Services, selected Firm may not propose to be a Construction Manager-at-Risk, prime construction contractor, or designer/builder on a construction project in the course of design or construction.
  - 5.8.3. After completion of its contract, selected Firm that is no longer under contract and no longer providing the Services will not, based on this selection, be precluded from consideration nor given special status in any future Judicial Council solicitations, but the Judicial Council will evaluate any responses to a solicitation based on applicable conflict of interest law restrictions.
- 5.9. **Rejection of Proposals:**
  - 5.9.1. The Judicial Council may reject any or all Proposals and may or may not waive an immaterial deviation or defect in a Proposal. The Judicial Council's waiver of an immaterial deviation or defect shall in no way modify the RFP or excuse Firm from full compliance with the RFP specifications.
  - 5.9.2. The Judicial Council reserves the right to accept or reject any or all of the items in the Proposal, to cease negotiations with one Firm if mutually-agreed terms cannot be reached and begin negotiations with another Firm, to award the contract in whole or in part and/or negotiate any or all items with individual Firm if it is deemed in the Judicial Council's best interest.
  - 5.9.3. Moreover, the Judicial Council reserves the right to make no selection.

## 6. PROTESTS

### 6.1. Who May Submit a Protest.

A Firm may submit a protest if **all** of the following conditions apply:

- 6.1.1. The Firm submitted a Proposal that the Firm believes to be responsive to the RFP,
- 6.1.2. The Judicial Council did not select the Firm to be on the Short List or to perform the Services, and
- 6.1.3. The Firm believes that the Judicial Council incorrectly excluded the Firm from the Short List and/or to perform the Services.

6.2. A person or entity who did not submit a Proposal may not submit a protest.

6.3. In no event will the Judicial Council consider a protest if the Judicial Council rejected all Proposals or the RFP was canceled for any reason.

**6.4. Deadline for Receipt of Protest**

- 6.4.1. A Firm's protest must be received within seven (7) calendar days of the Judicial Council's notification to Firm that it has not been selected.
- 6.4.2. The Firm is solely responsible for ensuring that a protest is received by the Judicial Council by the applicable due date. The failure of a Firm to submit a timely protest constitutes a waiver of the Firm's right to protest the award.

6.5. **Required Information.** A protest must include the following information:

- 6.5.1. Contact information of the protesting Firm or its representative (this must include name, address, and telephone number, e-mail address and fax number);
- 6.5.2. The title of the RFP to which the protest is related;
- 6.5.3. A detailed description of the specific legal and factual grounds of protest and any supporting documentation; and
- 6.5.4. The specific relief requested.

6.6. **Submission of the Protest.** The Firm must send the Protest to the individual identified in the RFP to receive proposals. The Firm must send the Protest by overnight courier or by personal delivery. If a Protest is late or missing any of this information, the Judicial Council will reject the Protest.

6.7. **Written Determination.** The Judicial Council shall respond to a protest with a written determination. The Judicial Council may issue a written determination regarding the Protest without requesting further information from the Firm. Therefore, the Protest must include all grounds and all evidence available at the time the Protest is submitted. If the Firm later raises new grounds or evidence that was not included in the initial Protest submittal but which could have been raised at that time, the Judicial Council shall not consider that new grounds or new evidence. The Judicial Council's written determination shall be the final action by the Judicial Council unless the Firm submits an appeal to that written decision within seven (7) calendar days of the issuance of the Judicial Council's written determination

**6.8. Appeal of Judicial Council's Written Determination**

- 6.8.1. If the protesting Firm decides to appeal the Judicial Council's Written Determination, the protesting Firm must send the appeal in writing to the Judicial Council's Manager,

Contracts, at the same address noted for the submission of questions in the RFP by overnight courier or by personal delivery.

- 6.8.2. The appeal must include:
  - 6.8.2.1. Contact information of the protesting Firm or its representative (this must include name, address, and telephone number, e-mail address and fax number);
  - 6.8.2.2. The title of the RFP to which the protest is related;
  - 6.8.2.3. A copy of the Judicial Council's written determination;
  - 6.8.2.4. A detailed description of the specific legal and factual grounds for the appeal and any supporting documentation, including information related to the Protest that was not available at the time the Protest was originally submitted with a detailed explanation of that information's unavailability; and
  - 6.8.2.5. The specific ruling or relief requested.
- 6.8.3. If an Appeal is late or missing any of this information, the Judicial Council will reject the Appeal.
- 6.8.4. The Judicial Council's Manager, Contracts, shall respond to an appeal with a written determination. The Judicial Council's Manager, Contracts, written determination shall be the final action by the Judicial Council and are not subject to further appeal.

**EXHIBIT E – REVISION 1  
FEE SCHEDULE AND METHOD OF PAYMENT**

**Compensation for Basic Services**

1. The Program Manager’s fee set forth in this Agreement shall be full compensation for all of Program Manager’s Services incurred in its performance, including, without limitation, all costs for personnel, travel within two hundred (200) miles of, offices, per diem expenses, printing, providing, or shipping of deliverables as further defined in Exhibit B.
2. The Fee shall not exceed the amount set forth in the Agreement, including all billed expenses, without advance written approval of the Judicial Council. The Fee shall be based on a fixed cost per deliverable as established in the Agreement.

<b>Deliverable Number</b>	<b>Deliverable Description</b>	<b>Cost</b>

**Compensation for Extra Services**

1. The following rates, which include overhead, administrative cost and profit, shall be utilized in arriving at the fee for Extra Services and shall not be changed for the term of the Agreement. Program Manager shall bill monthly in quarter-hour increments for all Extra Services.

<u><i>Job Title</i></u>	<u><i>Hourly Billing Rate</i></u>
Principal in Charge:	\$ _____
Program Manager (s):	\$ _____
Quality Manager	\$ _____
Scheduler	\$ _____
Other _____	\$ _____
Other _____	\$ _____
Other _____	\$ _____

**Reimbursable Expenses**

1. The Judicial Council will reimburse Firm for actual and reasonable transportation, meals, lodging expenses and miscellaneous expenses presented in the table below.

- a. If air transportation is authorized, the Judicial Council will reimburse Firm only at the actual cost incurred. All air transportation is limited to coach fares and when possible should be booked a minimum of eight (8) days prior to travel, unless the Judicial Council’s Project Manager agrees to a shorter period.
- b. If overnight lodging expense is authorized, the Judicial Council will reimburse Firm only for:
  - i. Hotel room rental supported by a receipt clearly indicating a zero balance due at the actual cost not to exceed \$110.00 per Day, plus occupancy tax and/or energy surcharge.
- c. Meals will be reimbursed at the actual cost not to exceed the following maximum amounts per person per Day: breakfast~\$8.00; lunch~\$12.00; dinner~\$20.00; and incidentals~\$6.00.
- d. For necessary private vehicle ground transportation usage, the Judicial Council will reimburse the Firm at the published IRS rate per mile, but only for mileage to and from any assigned location greater than fifty (50) miles from the office location stated in the response to the RFP.
- e. Other reimbursable expense, at Firm’s actual cost, as indicated in the Table A - Table of Reimbursable Expenses.

<b>Table A: Table of Reimbursable Expenses</b>			
<b>Category</b>	<b>JCC Provided</b>	<b>Service Provider Provided</b>	<b>Reimbursable Expense</b>
Office space		X	
Primary on site computers		X	
Hard drive and associated peripherals necessary to store electronic records			X
Copies		X	
Copy supplies (paper, toner, ink, binders, etc.)		X	
Drawings and specifications (at cost)			X
Safety equipment and supplies		X	
Specialized tools and equipment necessary for investigations e.g. cameras, recorders, scientific equipment, etc.		X	

**Method of Payment and Invoicing**

1. Program Manager shall submit monthly invoices for Basic Services on a form and in the format approved by the Judicial Council. Each monthly invoice must indicate the total fixed cost per deliverable.
2. Program Manager shall submit monthly invoices for Extra Services on a form and in the format approved by the Judicial Council. Each monthly invoice must itemize applicable

hourly charges in quarter-hour increments by specific project and job classification/function.

3. Program Manager shall submit these monthly invoices in duplicate to the Judicial Council via the Project Manager.
4. Upon receipt and approval of Program Manager's invoices, the Judicial Council shall endeavor to make payments on all undisputed amounts within sixty (60) days of receipt of the invoice.

End of Exhibit E

**ATTACHMENT 4**  
**COST PROPOSAL FORM**

[Provided as separate Word Document]