

# REQUEST FOR QUALIFICATIONS FOR DESIGN BUILD ENTITY – STIPULATED SUM

## Courts of Appeal, New Sixth Appellate District Courthouse, Sunnyvale, California

The Judicial Council of California (Judicial Council) seeks statements of qualifications from Design Build Entities qualified to provide services for the design and construction of the New Sixth Appellate District Courthouse, in Sunnyvale, California.

RFQ-FS-2024-03-MB



JUDICIAL COUNCIL  
OF CALIFORNIA

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OPERATIONS AND PROGRAMS DIVISION

**Date:**  
November 20, 2024

**Email Statement of Qualifications to:**  
[fs202403mb.soq@jud.ca.gov](mailto:fs202403mb.soq@jud.ca.gov)

**To:**  
Interested Design Build Entities

**Contact:**  
[Solicitations@jud.ca.gov](mailto:Solicitations@jud.ca.gov)

**From:**  
Judicial Council of California,  
Capital Program

**Project Title:**  
New Sixth Appellate District Courthouse for the  
Courts of Appeal  
RFQ Number: RFQ-FS-2024-03-MB

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### **RFQ – Index**

- 1.0** Introduction
- 2.0** Steps in the Selection Process
- 3.0** Purpose of RFQ
- 4.0** Project Description
- 5.0** Response to this RFQ
- 6.0** Judicial Council Pre-Qualification and Short List Process for this RFQ
- 7.0** Administrative Requirements

### **RFQ – Attachments**

- Attachment 1** Qualification Questionnaire
- Attachment 2** Form for Submission of Questions
- Attachment 3** Judicial Council Certification Forms
- Attachment 4** Conflict of Interest Policy for Design Build Projects and Disclosure of Potential Conflict of Interest Form

### **LINKS**

PAYEE DATA RECORD FORM (STD 204)  
(<https://www.documents.dgs.ca.gov/dgs/fmc/pdf/std204.pdf>)

PAYEE DATA RECORD SUPPLEMENT (STD 205)  
(<https://www.documents.dgs.ca.gov/dgs/fmc/pdf/std205.pdf>)

## 1.0 Introduction

- A. This Request for Qualifications (“RFQ”) is the means for interested Design Build Entities (“DBE”) to submit their Statements of Qualifications (SOQ) to the Judicial Council for the services described herein. The RFQ and all related documents and addenda are available in electronic form at <http://www.courts.ca.gov/rfps.htm>.
- B. The Judicial Council, chaired by the Chief Justice of California, is the primary policy making body of the California judicial system. Facilities Services is the division of the Judicial Council responsible for the planning, design, construction, real estate, and asset management of facilities for the Superior and Appellate Courts of California.

## 2.0 Steps in the Selection Process

The Judicial Council’s competitive selection process for the DBE will proceed in two steps:

### A. Step 1 (Pre-Qualification and Shortlist Phase)

1. Step 1 of the selection process is based on the Request for Qualifications (RFQ). This phase consists of an objective scoring methodology to rank candidate DBEs. The Statement of Qualifications (SOQ) received in accordance with this RFQ will be reviewed and ranked. A list of what is anticipated to be the top ranked three pre-qualified DBEs will be the only DBEs allowed to participate in Step 2 (Request for Proposal Phase) of the process.

### B. Step 2 (Request for Proposal Phase)

1. Step 2 of the selection process is based on a Request for Proposals (RFP). Only those DBEs who were shortlisted in Step 1 will be allowed to participate in Step 2. The Judicial Council will distribute the Request for Proposals for Step 2 to those DBEs shortlisted in Step 1. The RFP will be a detailed description of the Judicial Council’s expectations for the Project including the Project Architectural Program, Design Criteria, Room Data Sheets, Schematic Design documents, Judicial Council guidelines, Geotechnical information, Design Build Agreement(s), known site conditions, and other pertinent project information. These documents will be referred to as the Performance Criteria Documents. The Performance Criteria Documents including electronic copies will be available to the shortlisted DBEs for reference and / or development of their proposal.

The RFP will also identify the minimum deliverables and level of detail required in the proposal submittals for consideration.

During the proposal development period, the Judicial Council may conduct an informal and confidential conference with the individual prospective proposers if necessary. Upon submission, a Judicial Council Technical Review Team and a Selection Team will evaluate and score the proposals on their merits and based on their conformance to the Performance Criteria Documents. Design Build Entities will then be invited to participate in interviews. Based on scoring and interviews, Judicial Council staff will provide a recommendation to the Judicial Council for consideration and final selection. That recommendation will be based upon adherence to the Performance Criteria Documents and overall best value to the Judicial Council. It is anticipated the Request for Proposals will be distributed January 14, 2025.

### C. Schedule of Events

<b>1.0</b>	<b>Request for Qualifications (RFQ)</b>	
1.1	Judicial Council Issues RFQ	Wednesday, November 20, 2024
1.2	Pre-Submittal Conference (Mandatory) via Microsoft Teams Webinar Meeting Link: <a href="https://events.gcc.teams.microsoft.com/event/c7a196f5-858f-4e03-a41f-ee7b22bf9ef0@10cfa08a-5b17-4e8f-a245-139062e839dc">https://events.gcc.teams.microsoft.com/event/c7a196f5-858f-4e03-a41f-ee7b22bf9ef0@10cfa08a-5b17-4e8f-a245-139062e839dc</a> Host/Moderator: Kim Bobic	Monday, December 2, 2024 at 2:00 PM (PT)
1.3	Deadline for DBE to Submit RFQ Questions. Send to: <a href="mailto:Solicitations@jud.ca.gov">Solicitations@jud.ca.gov</a> . Refer to Attachment 2.	Thursday, December 12, 2024 at 3:00 PM (PT)
1.4	Clarifications, modifications and answers to questions posted on Judicial Council Website: <a href="http://www.courts.ca.gov/rfps.htm">http://www.courts.ca.gov/rfps.htm</a> .	Thursday, December 19, 2024
1.5	<b>Deadline for DBE to Submit Statement of Qualifications (SOQ) / Response to RFQ</b> Email SOQ to: <a href="mailto:fs202403mb.soq@jud.ca.gov">fs202403mb.soq@jud.ca.gov</a>	Tuesday, January 7, 2025 at 3:00 PM (PT)
<b>2.0</b>	<b>Evaluation of Statement of Qualifications (SOQ) (estimates only)</b>	
2.1	Judicial Council Reviews / Confirms Completeness of SOQ Submittals	Wednesday, January 8, 2025
2.2	Judicial Council Completes Reviewing and Scoring of the SOQs	Friday, January 10, 2025
2.3	Judicial Council Posts DBE Shortlist	Monday, January 13, 2025
<b>3.0</b>	<b>Request for Proposals (RFP) (estimates only)</b>	
3.1	Obtain Approvals of Criteria Documents	On or before January 13, 2025
3.2	Judicial Council Issues Request for Proposals	Tuesday, January 14, 2025
3.3	Deadline for DBE to Submit Proposal	Thursday, February 27, 2025
3.4	Judicial Council Approves Selected DBE Team	Friday, May 9, 2025
<b>4.0</b>	<b>Design and Construction Phase (estimates only)</b>	
4.1	Judicial Council Issues Notice to Proceed	Friday, June 30, 2025
4.3	Final Completion of Construction	September 2028
<b>5.0</b>	<b>Facility Occupancy (estimate only)</b>	
5.1	Final Occupancy Completed	December 2028

### 3.0 Overview of RFQ

- A. It is mandatory that all DBEs who intend to submit a proposal be pre-qualified by the Judicial Council, complete their Statement of Qualifications (SOQ) and provide all materials requested. No proposal will be considered from a DBE that has failed to comply with these requirements. The Judicial Council is not responsible for any costs that the DBEs may incur to complete the pre-qualification questionnaire.
- B. The Judicial Council has employed a Criteria Architect to develop the Performance Criteria Documents for the project to be issued as a part of the RFP. **The Architectural firm employed to develop the Performance Criteria Documents for this project is precluded from being a member of the Design Build Entity Team.**
- C. Answers to all questions contained in the RFQ questionnaire are required in each DBEs response to the RFQ. The Judicial Council will use the RFQ responses as the basis for evaluating DBEs. The Judicial Council reserves the right to check other sources available. The recommendations to the Judicial Council will be based on stated evaluation criteria.
- D. While it is the intent of the RFQ and supporting information to assist the Judicial Council in determining pre-qualification for participation in Step 2, the fact of pre-qualification, or any pre-qualification rating, will not preclude the Judicial Council from a post-proposal consideration and determination of whether a proposer has the quality, fitness, capacity, and experience to satisfactorily perform the proposed work.
- E. A DBE may be disqualified for proposing on this Project until the DBE meets the Judicial Council's requirements. In addition, a DBE may be disqualified for either: (1) omission of requested information or (2) falsification of information.

### 4.0 Project Description

- A. The New Sixth Appellate District Courthouse for the Courts of Appeal involves the design and construction of the New Sixth Appellate District Courthouse on behalf of the Courts of Appeal, utilizing the design build delivery method, stipulated sum, on a 2-acre Judicial Council-owned site in the city of Sunnyvale, California and formally operated as the Sunnyvale Courthouse by the Santa Clara County Superior Court. The Project requires the demolition of the vacant Sunnyvale Courthouse and the design and construction of a new, approximately 50,000 square-foot, 2 story appellate courthouse. The Project includes a single courtroom for oral arguments, justice chambers, attorney offices, mediation conference rooms, clerk's office, a law library, court administration, and building support.
- B. The new courthouse will replace the appellate court's current leased space in downtown San Jose and will provide a permanent state-owned home for the Sixth Appellate District and eliminate future lease uncertainties and ongoing expensive and escalating lease costs.
- C. The Project site will include secured parking for justices and surface parking for the public and staff. The Project site is approximately 2.03-acres and is located off of El Camino Real (State Route 82) and bounded to the north by All America Way and the City of Sunnyvale's Civic Center and City Hall. The Project site is mid-block between Mathilda Avenue to the east and Pastoria Avenue to the west. The vacant Sunnyvale Courthouse is a single-story building with a partial basement of approximately 19,994 square feet constructed in 1967 that will be demolished as part of the construction work. The existing parking lot for the vacant courthouse will be removed, full removal and re-pavement of the existing access driveway, and the existing parking area east of the access driveway will be ground and repaved, including landscape replacement.

- D. The following goals and objectives have been defined for the Project:
1. Provide for the construction of a new facility prior to the Sixth Appellate District's current lease expiration in January 2029;
  2. Implement a courthouse design that is accessible, secure and safe and incorporates state-of-the-art technological infrastructure that can accommodate remote work while maintaining in-person services;
  3. Use timeless design and finishes, while introducing light to promote calm and create an inviting workspace that encourages deep thinking;
  4. Create a courthouse that compliments the modern civic structures around the Project site while promoting the dignity of the Court and appearing substantive, solid and balanced.
- E. The total estimate for the Project is approximately \$74,000,000 including construction and design fees. The minimum bonding capacity will equal the construction estimate of approximately \$67,300,000. Prospective DBEs that cannot provide bonding at that amount will not be considered qualified even though they may be qualified otherwise.

## 5.0 Response to this RFQ

- A. SOQs must conform to the Judicial Council of California requirements provided herein.
- B. Interested DBEs must hold and maintain a valid **Class B General Contractor license** from the State of California. DBE shall notify the Judicial Council in writing in the event DBE's license expires, is, or may be, suspended or has a change in signatory authority.
- C. In order to be considered, SOQs must be submitted to the Judicial Council in type written form, no later than the time and date indicated in "SOQ Due Date and Time" set forth in the Schedule of Events. DBE's must ensure compliance with the dates, times and processes set forth in the Schedule of Events. The times and dates are subject to change at the Judicial Council's discretion.
- D. **Method of Submission.** Proposals must be submitted electronically. Email your proposal no more than three (3) days in advance of the proposal due date to the following email addresses:

Email Statement of Qualifications to: [fs202403mb.soq@jud.ca.gov](mailto:fs202403mb.soq@jud.ca.gov)

Only electronic proposals will be accepted.

- E. DBEs assume all risk for ensuring receipt no later than the date and time specified in the Schedule of Events. The Judicial Council is not responsible for the failure of a DBE's choice of delivery service/method. The Judicial Council will not open and may return any SOQ received after the date and time specified in the Schedule of Events.
- F. **Changes to Process for Submitting SOQ and Schedule of Events.** The RFQ and Schedule of Events are subject to change. The Judicial Council does not send notifications of changes to this RFQ or the Schedule of Events to prospective DBEs. The Judicial Council is not responsible for failure of any DBE to receive notification of changes in a timely manner. DBEs are advised to visit the Judicial Council website (<http://www.courts.ca.gov/rfps.htm>) frequently to check for changes and updates to the RFQ and the Schedule of Events.
- G. Throughout this solicitation process, if there is any need for communication with the Judicial Council with regards to any aspect of this RFQ, such communication must be in writing, and submitted as e-mail to [Solicitations@jud.ca.gov](mailto:Solicitations@jud.ca.gov). With regard to this RFQ, DBE's and their subcontractors must not

communicate on the topic of the RFQ with Judicial Council personnel or other Judicial Council consultants associated with this procurement. Violation of this restriction may disqualify the DBE from consideration.

H. **Pre-Submittal Actions and Events.** DBEs shall submit the following according to the specified timelines in order to participate in this process.

1. **Optional: Submit Questions Prior to the Pre-Submittal Conference**

- a. DBEs may submit questions to be answered at the Pre-Submittal Conference on the Form for Submission of Questions (Question Form) that is posted as Attachment 2 to the RFQ. The Question Form must be emailed to: [solicitations@jud.ca.gov](mailto:solicitations@jud.ca.gov) and include the following e-mail subject line: “DBE: RFQ Questions + (DBE Name)”.
- b. Please complete all sections of the Question Form. DBEs should specifically identify and cite the particular section(s) of the RFQ about which the DBE has questions. DBEs’ questions should be limited to the RFQ process and general questions regarding the overall nature of the Project. Highly specific questions regarding the Project should be withheld until after the Pre-Submittal Conference.
- c. Please take notice that the DBE’s name may appear on the Judicial Council website when answers to questions submitted are posted. The Judicial Council will post answers to questions submitted as indicated in the Schedule of Events.

2. **Mandatory: Participate in the Pre-Submittal Conference**

During the Pre-Submittal Conference, the Judicial Council will provide an overview of the Project, introduce key Judicial Council personnel, and briefly answer questions submitted prior to the Pre-Submittal Conference. If time allows, other questions may be asked and answered. Note: Although questions may be discussed during the Pre-Submittal Conference, verbal responses are not official and binding. The official and binding responses will be the ones posted to the Judicial Council website.

3. **Optional: Submit Questions After the Pre-Submittal Conference**

DBEs may submit questions after the Pre-Submittal Conference and prior to submission of SOQ using the Question Form process indicated above. Judicial Council’s response to these questions will be posted to the Judicial Council website.

4. **Optional: Send Email Intent to Respond**

DBEs that intend to respond to this RFQ are requested to notify the Judicial Council by sending an email to [solicitations@jud.ca.gov](mailto:solicitations@jud.ca.gov) with the RFQ number and DBE name in the subject line. DBE’s Intent to Respond should include the name, address, telephone, fax number, and e-mail address and contact person for the DBE.

DBEs are strongly encouraged to submit an Intent to Respond in order to assist the Judicial Council in managing the RFQ process.

I. **Preparing and Packaging SOQ**

1. SOQs should provide straightforward and concise information that fulfill the requirements of the RFQ. Expensive bindings and elaborate displays are discouraged. Emphasis should be placed on

brevity, conformity to the Judicial Council’s instructions, RFQ selection criteria, and completeness and clarity of content.

2. SOQs should be organized as indicated below.
3. Proposals shall be submitted in an electronic format. See 5.0 D above for instructions on submitting proposals electronically. DBE shall submit the following:

- a. The completed SOQ; and
- b. **Payee Data Record (STD 204)**, which must be completed in the exact name of the business entity under which the Contractor proposes to do business with the Judicial Council. The Payee Data Record (STD 204) is available at the following link:  
<https://www.documents.dgs.ca.gov/dgs/fmc/pdf/std204.pdf>.

Additionally, if necessary, the **Payee Data Record Supplement (STD 205)** is required (i) if Contractor’s remittance address information is different than the mailing address on the Payee Data Record (STD 204); (ii) for multiple remittance addresses, and (iii) for additional Authorized Representatives of the Payee not identified on the Payee Data Record (STD 204). The Payee Data Record Supplement (STD 205) is available at the following link:  
<https://www.documents.dgs.ca.gov/dgs/fmc/pdf/std205.pdf>.

4. SOQ Contents: Provide the following as the Statement of Qualifications (SOQ):
  - a. **Section 1:** Cover letter. The cover letter shall include DBE’s name, address, telephone, and e-mail address and federal tax identification number. The cover letter must be signed by an authorized representative of the prospective DBE.
  - b. **Section 2:** Qualification Questionnaire for DBE’s. The Qualification Questionnaire is located in Attachment 1 of the RFQ documents. DBE’s shall complete the Qualification Questionnaire form in full, including all of the applicable forms and attachments, per the General Instructions and Information included therein.

The Qualification Questionnaire consists of Parts I through IV, which must be completed as part of the SOQ response. DBE’s shall review the Qualification Questionnaire for a detailed explanation of what is required to be included in the Qualification Questionnaire response.

- c. **Section 3:** Additional Forms
  - 1) Submit one signed original of each of the Judicial Council’s Certification Forms (Attachment 3).
  - 2) Submit one signed Disclosure of Potential Conflict of Interest Form (Attachment 4).

## 6.0 Judicial Council Pre-Qualification and Short List Process for this RFQ

- A. Pre-Qualification: SOQ’s will first be reviewed to ensure compliance with all minimum mandatory criteria contained in this RFQ. DBE must receive a “Pass” score in Section II of the Qualification Questionnaire. Upon confirmation of meeting the mandatory criteria, the DBE’s SOQ will advance to the evaluation process.



- B. An evaluation panel composed of predominantly Judicial Council Facilities Services staff will review and score the SOQ submissions based on the evaluation criteria listed below and establish a short-list of approved DBE's.
- C. Short List: DBE's will be ranked based on the evaluation criteria and the highest-scoring DBE's will advance to Step 2 the RFP phase. It is intended that the shortlist will include the top DBE's with the highest scores, as stated in Section 2.0, item A.1 above. DBE's not on the shortlist will not be eligible for further consideration for this solicitation. The shortlisted DBE's will be posted on the Judicial Council website.

D. The Judicial Council will evaluate the DBE’s SOQ response to this RFQ using the following criteria:

EVALUATION / MAXIMUM SCORE	QUALIFICATION QUESTIONNAIRE CRITERIA 218 POINTS MAXIMUM
<b>PASS/FAIL</b>	<b>Part I:</b> Information about DBE
<b>PASS/FAIL</b>	<b>Part II:</b> Essential Requirements for DBE
<b>119</b>	<b>Part III, Subpart A:</b> Scored Questions, General Contractor (GC) Member
<b>53</b>	<b>Part III, Subpart B:</b> Scored Questions, Architect Member
<b>26</b>	<b>Part IV:</b> Recent Construction Projects Completed, GC Member
<b>20</b>	<b>Part IV:</b> Recent Construction Projects Completed, Architect Member

- E. At any time, the Judicial Council may contact previous clients and owners to verify the experience and performance of the prospective DBE, their key personnel, and their subcontractors.
- F. The Judicial Council reserves the right to disqualify any DBE based upon a lack of proper license, failure to maintain required registration with the California Department of Industrial Relations, a history of serious violations of law, debarment, or any other factor that would interfere with the Judicial Council’s ability to enter into a contract with the DBE, regardless of scoring in other categories, and at Judicial Council’s sole discretion.
- G. The Judicial Council reserves the right to reject any DBE’s submission to the RFQ due to non-responsiveness to the selection criteria or that fails to demonstrate the DBE has direct expertise in services of similar size, complexity and nature.

**7.0 Administrative Requirements**

**A. Disabled Veteran Participation Goals**

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

**B. California Rules of Court, Rule 10.500 – Public Access to Judicial Administrative Records:** Records created as part of DBE’s Proposal and selection process are generally subject to California Rules of Court, Rule 10.500 and may be available to the public absent an exemption. If a DBE’s SOQ or Proposal contains material noted or marked as confidential and/or proprietary that, in the Judicial Council’s sole opinion, meets the disclosure exemption requirements of Rule 10.500, then that information will not be disclosed pursuant to a request for records. If the Judicial Council does not consider such material to be

exempt from disclosure under Rule 10.500, the material will be made available to the public, regardless of the notation or markings. If a DBE is unsure if the information contained in its SOQ or Proposal is confidential and/or proprietary, then it should not include the information in its SOQ and Proposal. A DBE that indiscriminately identifies all or most of its SOQ or Proposal as exempt from disclosure may be deemed non-responsive.

- C. **Errors in the RFQ:** If DBE discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFQ, DBE shall immediately provide the Judicial Council with written notice of it and request that the RFQ be clarified or modified. Without disclosing the source of the request, the Judicial Council may modify the RFQ prior to the date fixed for submission of SOQ and Proposals by issuing an addendum.
- D. **Addenda:** The Judicial Council may modify the RFQ prior to the date fixed for submission of SOQ's by posting an addendum on the Judicial Council website. If DBE determines that an addendum unnecessarily restricts its ability to submit its SOQ, it must notify the Judicial Council no later than one (1) day following the posting of the addendum.
- E. **Withdrawal and Resubmission/Modification of SOQ's:** DBE may withdraw its SOQ at any time prior to the deadline for submitting SOQ's by notifying the Judicial Council in writing of its withdrawal. The notice must be signed by DBE. DBE may thereafter submit a new or modified SOQ, provided it is received at the Judicial Council no later than the due date and time listed in this RFQ. Modifications offered in any other manner, oral or written, will not be considered. Proposals cannot be changed or withdrawn after the proposal due date and time listed in this RFQ.
- F. **Rejection of SOQs:**
  - 1. The Judicial Council reserves the right to waive non-substantial irregularities and omissions contained in the submitted SOQs, to make all final determinations, and to determine at any time that the pre-qualification procedures will not be applied to any additional future project.
  - 2. The Judicial Council may refuse to accept a response to the RFQ where the requested information and materials are not provided or not provided by the date specified. The closing time for proposals will not be changed in order to accommodate supplementation of incomplete submissions or late submissions. Failure to timely submit information shall not provide a basis for appeal.
  - 3. The Judicial Council reserves the right to adjust, increase, limit, suspend, or rescind the pre-qualification rating based on subsequently learned information.
  - 4. The selection of the top DBEs shortlisted to participate in Step 2 is at the sole discretion of the Judicial Council. No appeal of that decision will be entertained.
- G. **Protest Procedure for the RFQ**
  - 1. **General.** Failure of DBE to comply with the protest procedures set forth in this Section, will render a protest inadequate and non-responsive, and will result in rejection of the protest.
  - 2. **After Posting of Shortlist**
    - a. DBE submitting a SOQ may protest the Judicial Council's shortlist determination based on allegations of improprieties occurring after the SOQ evaluation and posting of shortlists if it meets all of the following conditions:
      - 1) The DBE has submitted a SOQ that it believes to be responsive to the RFQ;

- 2) The DBE believes that its SOQ meets the requirements of the RFQ; and
  - 3) The DBE believes that the Judicial Council has incorrectly not selected the DBE to be included on the shortlist.
- b. The protest must be received no later than five (5) business days after the protesting party receives notice of the Judicial Council's shortlist.

### 3. Form of Protest

- a. The protest must be submitted by email to the email address established for the submission of questions in the RFQ document.
- b. The protest shall include the name, address, email address, and telephone and facsimile numbers for the Design Build Entity or its representative.
- c. The title of the RFQ document under which the protest is submitted shall be included.
- d. A detailed description of the specific legal and factual grounds of protest and any supporting documentation shall be included.
- e. The specific ruling or relief requested must be stated.
- f. The Judicial Council, at its sole discretion, may make a decision regarding the protest without requesting further information or documents from the protestor. Therefore, the initial protest submittal must include all grounds for the protest and all evidence available at the time the protest is submitted. If the protestor later raises new grounds or evidence that was not included in the initial protest but which could have been raised at that time, the Judicial Council will not consider such new grounds or new evidence.

4. **Determination of Protest Submitted After Submission of SOQ.** Upon receipt of a timely and proper protest, the Judicial Council will investigate the protest and will provide a written response to the DBE within a reasonable time. If the Judicial Council requires additional time to review the protest and is not able to provide a response within ten (10) business days, the Judicial Council will notify the DBE. If the protesting party elects to appeal the decision, the protesting party will follow the appeals process outlined below. The Judicial Council, at its sole discretion, may elect to withhold the shortlist posting until the protest is resolved or denied, or proceed with shortlist posting.

### 5. Appeals Process

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

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

**6. Protest Remedies**

- a. If the protest is upheld, the Judicial Council will consider all circumstances surrounding the RFQ in its decision for a fair and reasonable remedy, including the seriousness of the RFQ deficiency, the degree of prejudice to the protesting party or to the integrity of the competitive process, the good faith efforts of the parties, the extent of performance, the cost to the Judicial Council, the urgency of the procurement, and the impact of the recommendation(s) on the Judicial Council. The Judicial Council may recommend, but not limited to any of the following:
- 1) Revise the list of shortlisted prequalified DBE's;
  - 2) Re-solicit the RFQ;
  - 3) Issue a new RFQ; or
  - 4) Any other remedies as may be required to promote compliance.

7. **Disposition of Materials.** All materials submitted in response to this RFQ will become the property of the State of California and will be returned only at the Judicial Council's option and at the expense of the DBE submitting the Proposal. One copy of a submitted SOQ will be retained for official files and become a Judicial Administrative Record subject to public disclosure pursuant to California Rules of Court, Rule 10.500.

**END OF DOCUMENT**