

# **Request for Proposals (RFP) for Real Estate Appraisal Services**

**The Judicial Council of California seeks to identify one or more qualified firms to provide Real Estate Appraisal services for projects to be initiated between November 2018 and October 2023, with possible extensions to October 2025.**



**JUDICIAL COUNCIL  
OF CALIFORNIA**

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**ADMINISTRATIVE DIVISION  
FACILITIES SERVICES**



JUDICIAL COUNCIL  
OF CALIFORNIA

ADMINISTRATIVE DIVISION  
FACILITIES SERVICES

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## REQUEST FOR PROPOSALS

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**Subject:** Request for Proposals for Real Estate Appraisal Services

**Date:** 08/01/2018

**To:** Real Estate Appraisal Firms

**From:** Judicial Council of California, Facilities Services office

**RFP Number:** FS-2018-12-BD  
**RFP Title:** Real Estate Appraisal Services Statewide

**RFP Posted to:**  
<http://www.courts.ca.gov/rfps.htm>

**Action Requested:** You are invited to review and respond to the attached Request for Proposal (RFP) for Real Estate Appraisal Services, FS-2018-12-BD

**Submission Deadline for Proposals:** August 24th, 2018 by 3 pm (PST)

**Proposal submissions must be sent to:**  
Judicial Council of California  
Attention: Lenore Fraga-Roberts  
455 Golden Gate Avenue, 6th Floor  
San Francisco, CA 94102

For further information please write to:  
[solicitations@jud.ca.gov](mailto:solicitations@jud.ca.gov)

**Latest date and time proposal may be submitted: Friday, August 24th, 2018 by 3 pm (PST)**

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This RFP and all associated documents and addenda will be posted on the California Courts website, Bidders / Solicitations link, at: <http://www.courts.ca.gov/rfps.htm>

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**RFP ATTACHMENTS. The following attachments are included as part of this RFP:**

A-1	Department of General Services Appraisal Specifications
A-2	DGS Document Regarding Implied Dedication
B	Submission form for Technical Proposal This form details the technical requirements for the program and must be completed and submitted in response to RFP's technical requirements
C	Submission Form for Cost Proposal This form details the pricing for the details of the program and must be completed and submitted in response to RFP's cost requirements
D	Judicial Council's Form of Standard Agreement - Terms and Conditions If selected, the person or entity submitting a proposal (the "Proposer") must sign a Judicial Council Standard Form Agreement containing these terms and conditions (the "Terms and Conditions").
E	Proposer's Acceptance of Terms and Conditions On this form, the Proposer must indicate acceptance of the Terms and Conditions or identify exceptions to the Terms and Conditions and submit with proposal.
F	General Certifications Form (Conflict of Interest Certification) Proposer must complete the General Certifications Form and submit the completed certification with its proposal
G	Form for Submission of Questions Email all questions using the Form for Submission of Questions (Attachment G) posted along with this RFP to: <a href="mailto:solicitations@jud.ca.gov">solicitations@jud.ca.gov</a>
H	Payee Data Record This form contains information the Judicial Council requires in order to process payments. Proposer must submit this form with their proposal.
I	Internal Background Check Policy Contains information on the Judicial Council's Background Check Process.
J	Bidder Declaration Form. Complete this form only if Proposer wishes to claim the DVBE incentive associated with this solicitation.
K	DVBE Participation Form The Proposer must complete this form and submit it with their proposal.

The Judicial Council has developed the following list of key events from RFP issuance through performance start date. All deadlines are subject to change at the Judicial Council’s discretion.

<b>RFP SCHEDULE</b>	
<b>EVENT</b>	<b>DATES (PST)</b>
<b>1. RFP is Issued</b>	<b>August 1st, 2018</b>
<b>2. Deadline for submitting request for additional information, and clarifications.</b> Email all questions using the Form for Submission of Questions (Attachment G) posted along with this RFP to: <a href="mailto:solicitations@jud.ca.gov">solicitations@jud.ca.gov</a>	<b>August 10th, 2018</b>
<b>3. Questions and answers posted (estimate only).</b> Judicial Council will post answers on the California Courts website, Bidders / Solicitations page, located at: <a href="http://www.courts.ca.gov/rfps.htm">http://www.courts.ca.gov/rfps.htm</a>	<b>August 17th, 2018</b>
<b>4. Latest date and time proposal may be submitted.</b> See RFP Section 5.0 for further details. Submit to: Judicial Council of California, Attention: Lenore Fraga-Roberts, 455 Golden Gate Avenue, 6th Floor, San Francisco, CA 94102	<b>August 24th, 2018 by 3 pm (PST)</b>
<b>5. Evaluation of proposals (estimate only)</b>	<b>August 30th, 2018</b>
<b>6. Notice of Intent to Award (estimate only)</b> will be posted on the California Courts website: <a href="http://www.courts.ca.gov/rfps.htm">http://www.courts.ca.gov/rfps.htm</a>	<b>September 20th, 2018</b>
<b>7. Contract start date (estimate only)</b>	<b>November 1st, 2018</b>

## 1.0 BACKGROUND INFORMATION

The Judicial Council of California (“Judicial Council”), chaired by the Chief Justice, is the policy-making entity of the California judicial system. The California Constitution directs the Judicial Council to improve the administration of justice by serving judicial business, recommending improvements to the courts, and making recommendations annually to the Governor and the Legislature. The Judicial Council also adopts rules for court administration, practice, and procedure, and performs other functions prescribed by law. Facilities Services is the office within the Judicial Council responsible for the planning, design, construction, and real estate and asset management of facilities for the court system of California, including site acquisitions and property dispositions. Currently there are site acquisitions in progress or planned, for which Judicial Council will need new appraisals or updates to already obtained appraisals. Additionally, an undetermined number of appraisals will be required for existing facilities in support of planned dispositions. Appraisals also may be used to obtain title insurance and to meet other business needs.

## 2.0 PURPOSE OF THIS RFP

- 2.1 The Judicial Council seeks to identify and retain one or more qualified appraisal firms (“Service Provider(s)”) to determine the fair market value of existing court facilities and prospective court facility sites in California. This RFP is the means for prospective Service Providers to submit their Technical and Cost proposals to the Judicial Council for consideration, along with detailed descriptions of the various types of appraisal reports offered, such as full reports for prospective land acquisitions or restricted use reports for valuation of existing court facilities. After evaluating proposals, the Judicial Council may invite one or more qualified prospective Service Providers to enter into a standard agreement (“Standard Agreement” or “Contract”) with the Judicial Council.
- 2.2 The initial Contract term will be for five (5) years commencing on or about November 1st, 2018 and expiring on October 31st, 2023. The Judicial Council shall have the option, exercisable upon written notice, to extend a Contract awarded under this RFP for one (1) additional term of two (2) years.

## 3.0 SCOPE OF SERVICES

- 3.1 The Judicial Council seeks the services of Service Provider(s) with expertise in real estate appraisal services. During the contract term, the Service Provider is expected to provide appraisal services as described herein Section 3.0, Scope of Services. Services shall be provided on an as-needed basis for an undetermined number of existing court facilities and prospective courthouse sites throughout the state of California. Appraisal services may be ordered at any time during the contract term or not at all. The subject properties are located in various counties throughout the state of California (see Attachment B, Submission Form for Technical Proposal for the full list of counties).
- 3.2 **Use of Subcontractors.** The use of subcontractors may be permitted with prior written consent of the Judicial Council’s Project Manager (see Attachment D, Appendix C, Section 8, Assignment and Subcontracting). In some cases subcontractors may be necessary to meet the Judicial Council’s requirement for use of local appraisers and/or appraisers with experience in the location of the existing or prospective court facility (see RFP Sections 3.5, and 3.6 below); however, the Service Provider will itself remain the sole point of contact with the Judicial Council, and will be solely responsible for the supervision and the acts of its subcontractors, and must warrant the work of such subcontractors as if it were the Service Provider’s own work.
- 3.3 **Required Appraisal Services.**
  - a. Types of Properties
    - i) Land
    - ii) Land + Improvements
  - b. Types of Reports
    - i) Restricted Use Appraisal Report
    - ii) Appraisal Report
  - c. Approaches required:
    - i) Sales Comparison
    - ii) Cost
    - iii) Income
    - iv) Combination of above

- v) Alternative approaches for Special Use properties
  - 1) Use Value
  - 2) Going Concern Value
  - 3) Combination of above
- d. Types of Services
  - i) New appraisal report.
  - ii) New appraisal report – Judicial Council provides a recent appraisal report from another firm.
  - iii) Multiple new appraisal reports for properties in the same vicinity being appraised concurrently, thereby affording Service Provider certain economies of scale.
  - iv) Update of a previous Service Provider’s appraisal report, to reflect current market conditions.
  - v) Update of a previous Service Provider’s appraisal report to reflect expanded scope.
  - vi) Update of a previous Service Provider’s appraisal report to reflect reduced scope.
  - vii) Update of a previous Service Provider’s appraisal report to change approach used.
  - viii) New Commission appraisal report to determine real estate brokerage market commission rates.
  - ix) Other types of appraisal reports as specifically requested (e.g., partial interest valuation; valuation of a development restriction on an adjoining property, etc.).

**3.4 State of California, Department of General Services Requirements.** All existing and prospective court facility appraisal reports must conform to the requirements of the state of California, Department of General Services (“DGS”) Appraisal Review Unit. DGS reviews all Judicial Council appraisal reports commissioned in connection with the acquisition of real property and will reject any appraisal if it is non-conforming. Requirements (“DGS Requirements”) are as follows:

- a. Each appraisal report must conform to the requirements contained in the DGS document entitled “Department of General Services Appraisal Specifications (DGS), (Revised January 1, 2008)” (“DGS Specifications”), as may be revised or updated from time to time. The current document is included as Attachment A-1 to this RFP.
- b. Each appraisal report must include a statement regarding “Implied Dedication”. Refer to the DGS document regarding Implied Dedication, included as Attachment A-2 to this RFP.

**3.5 Additional Judicial Council Report Requirements.**

- a. All depictions of the subject property and the comparable properties must be a minimum of 4” x 6” in size, including any photographs required by DGS Specifications.
- b. While not stated in the DGS Specifications, local appraisers with knowledge of the local real estate markets are preferred, therefore the Judicial Council requires that each appraisal be performed by, and signed by, a local licensed appraiser with a minimum of five (5) years experience in the geographic market in which the subject property is located. In the event the Service Provider does not have a local licensed appraiser in the market where the appraisal work is to be performed, the Service Provider must subcontract the appraisal work out to a qualified licensed appraiser who is located within that market (see Attachment D, Appendix C, Section 8, Assignment and

Subcontracting). The Service Provider will remain responsible for overseeing the subcontractor's work and for insuring that the work meets all contractual requirements between the Judicial Council and the Service Provider. Because the definition of "local" may vary depending on location, the Service Provider will need to indicate in its quote to the Judicial Council how it intends to meet this requirement.

**3.6 Delivery/Approval of Reports by the Judicial Council.**

Service Provider will e-mail an electronic version of the report to the Judicial Council for review and comment no later than the mutually agreed-upon due date for completion of the work. The Judicial Council will provide comments and/or questions to the document and provide that document back to Service Provider. Once agreement has been reached on the final changes, Service Provider will provide to the Judicial Council within five (5) business days an electronic PDF version of the final report (via e-mail) and if requested, hard copy, bound reports in the quantity requested and to the address or addresses specified.

**3.7 Approval of Reports by DGS.**

- a. If an appraisal report is rejected by DGS because the report does not conform to one or more of the DGS Requirements noted above, Service Provider will, at no additional charge to the Judicial Council, and within no more than five (5) business days after written request from Judicial Council, revise the report to conform to the DGS Requirements noted in Attachments A1, and A2. Service Provider also will provide a redlined document which shows the edits made, as compared to the original appraisal report.
- b. If an appraisal report is rejected by DGS for any other reason, the Judicial Council and Service Provider will negotiate a reasonable fee to cover the cost of revising the report to address DGS's new requirements. Upon agreement by the Judicial Council and Service Provider, as to the fee to cover the cost of revising the report, Service Provider will, within no more than five (5) business days thereafter, revise the report to conform to the new requirements. Service Provider also will provide a redlined document which shows the edits made, as compared to the original appraisal report.
- c. Once changes have been accepted by the Judicial Council and finalized, Service Provider will provide the revised reports to the Judicial Council in accordance with Section 3.6 above (Delivery/Approval).

**3.8 The Judicial Council expects the following administrative services to be provided at no additional charge:**

- a. Status Reports: If requested by the Judicial Council, Service Provider will provide the Judicial Council with regular order status reports on a weekly, bi-weekly, or monthly basis, at Judicial Council's option.
- b. Copies of Reports/Delivery: Up to four (4) hard-copy, bound reports with original signatures, delivered via courier service or USPS to one or more Judicial Council specified address(es).

#### **4.0 PAYMENT INFORMATION**

- 4.1 The Judicial Council anticipates payment for work specified in this RFP to be based on a Firm Fixed Price for appraisal report(s) by Type.
- 4.2 **Firm Fixed Price(s) for appraisal reports by type.**
- a. Service Provider shall provide Firm Fixed Price(s) for appraisal report(s) by type for services specified in RFP section 3.0, Scope of Services. Firm Fixed Prices for appraisal report(s) by Type shall provide fully burdened rate(s) to include, without limitation, all costs, labor, Service Provider's in house equipment, expenses, travel-related costs, fees, overhead, and profits payable to the Service Provider for services rendered to the Judicial Council, including labor costs associated with overtime, weekend, and after hours work. The submitted rates will be held in confidence until such time as a contract is executed.
  - b. Include the fully burdened Firm Fixed Price(s) for appraisal report(s) by type listed in this section, by completing the Submission Form for Cost Proposal (Attachment C).
  - c. The Firm Fixed Price(s) for appraisal report(s) by type as set forth in the Submission Form for Cost Proposal (Attachment C) shall be the rates charged for Services performed under the Judicial Council's Form of Standard Agreement that may be awarded under this RFP.
  - d. Invoices shall be submit to the Judicial Council upon the Judicial Council's acceptance of the final deliverable(s) (see Attachment D, Appendix B, Section 4.1). Progress Payments will not be allowed.
  - e. Penalties for late or inadequate performance will be imposed, see Attachment D, Appendix A, Section 2.11, Acceptance or Rejection.
  - f. Payment terms are specified in the Judicial Council's Form of Standard Agreement (Attachment D, Appendix B, Payment Provisions).

4.3 **Service Work Order Authorization Process.**

For information regarding the Judicial Council's process for authorizing Services and Work under Agreement(s) that may be issued as a result of this RFP, refer to Attachment D, Appendix A, Section 2.8, Service Work Order Authorization Process.

#### **5.0 SUBMISSIONS OF PROPOSALS**

- 5.1 Proposals should provide straightforward, concise information that satisfies the requirements of the "Proposal Contents" section below. Expensive bindings, color displays, and the like are not necessary or desired. Emphasis should be placed on conformity to the RFP's instructions and requirements, and completeness and clarity of content.
- 5.2 The Proposer must submit its proposal in two parts, the Submission Form for Technical Proposal (Attachment B) and the Submission Form for Cost Proposal (Attachment C).



- a. The Proposer must submit **one (1) original and three (3) copies** of the Submission Form for Technical Proposal (Attachment B). The original must be signed by an authorized representative of the Proposer. The original technical proposal (and the copies thereof) must be submitted to the Judicial Council in a single sealed envelope, separate from the cost proposal. The Proposer must write the RFP title, and number, along with Technical Proposal on the outside of the sealed envelope.
- b. The Proposer must submit **one (1) original and three (3) copies** of the Submission Form for Cost Proposal (Attachment C). The original must be signed by an authorized representative of the Proposer. The original cost proposal (and the copies thereof) must be submitted to the Judicial Council in a single sealed envelope, separate from the technical proposal. The Proposer must write the RFP title and number, along with Cost Proposal on the outside of the sealed envelope.
- c. The Proposer must submit an electronic version of the entire proposal on CD-ROM or USB memory stick/flash drive. Proposer shall include the Cost Proposal and Technical Proposal as separate files on a single USB Memory stick or CD-ROM. The files must be in PDF, Word, or Excel formats.

5.3 Proposals must be delivered by the date and time listed on the RFP Schedule to:

Judicial Council of California  
Attention: Lenore Fraga-Roberts  
455 Golden Gate Avenue, 6th Floor  
San Francisco, CA 94102

5.4 Late proposals will not be accepted.

5.5 Only written proposals will be accepted. Proposals must be sent by registered or certified mail, courier service (e.g. FedEx), or delivered by hand. Proposals may **not** be transmitted by fax or email.

## 6.0 TECHNICAL AND COST PROPOSAL CONTENTS

6.1 Directions for preparing and submitting the Technical and Cost Proposals, including proposal requirements, and content, are included in RFP Attachment B, Submission Form for the Technical Proposal and RFP Attachment C, Submission Form for Cost Proposal. In order for a proposal to be considered responsive and acceptable for evaluation by the Judicial Council, emphasis should be placed on providing responses and materials that conform to the Judicial Council's instructions, including clear and complete responses. A proposal lacking any of the requested information may be deemed non-responsive.

### 6.2 Certifications, Judicial Council Policies, Attachments, and Other Requirements.

#### a. Acceptance of the Terms and Conditions.

- i. On Attachment E, the Proposer must check the appropriate box and sign the form. If the Proposer marks the second box, it must provide the required additional materials. An "exception" includes any addition, deletion, or other modification.

- ii. If exceptions are identified, the Proposer must also submit (i) a red-lined version of the Terms and Conditions that implements all proposed changes, and (ii) a written explanation or rationale for each exception and/or proposed change.
- iii. Note: An exception to a material term may render a proposal non-responsive.
- b. **General Certifications Form.** The Proposer must complete the General Certifications Form (Attachment F) and submit the completed form with its proposal.
- c. **Payee Data Record.** This form contains information the Judicial Council requires in order to process payments. The Proposer must complete the Payee Data Record (Attachment H) and submit the completed record with its proposal.
- d. **Internal Background Check Policy** (Attachment I). Contains information on the Judicial Council's Background Check Process.
- e. If Service Provider is a California corporation, limited liability company ("LLC"), limited partnership ("LP"), or limited liability partnership ("LLP"), proof that Service Provider is in good standing in California must be provided. If Service Provider is a foreign corporation, LLC, LP, or LLP, and Service Provider conducts or will conduct (if awarded the contract) intrastate business in California, proof that Service Provider is qualified to do business and is in good standing in California must be provided. If Service Provider is a foreign corporation, LLC, LP, or LLP, and Service Provider does not (and will not if awarded the contract) conduct intrastate business in California, proof that Service Provider is in good standing in its home jurisdiction must be provided.
- f. **Bidder Declaration Form** (Attachment J). Complete this form only if Proposer wishes to claim the DVBE incentive associated with this solicitation.
- g. **DVBE Participation Form** (Attachment K). The Proposer must complete this form and submit it with their proposal.

## 7.0 OFFER PERIOD

A Proposer's proposal is an irrevocable offer for ninety (90) days following the proposal due date. In the event a final contract has not been awarded within this period, the Judicial Council reserves the right to negotiate extensions to this period.

## 8.0 EVALUATION OF PROPOSALS

8.1 Responsive proposals must contain all of the information required in RFP Attachment B, Submission form for Technical Proposal and RFP Attachment C, Submission form for Cost Proposal, and shall follow the numbering format as indicated. At the time proposals are opened, each proposal will be checked for the presence or absence of the required proposal contents. Prospective Proposers who submit proposals failing to meet RFP requirements will not be ranked as set forth in section 8.4, and their proposal may be deemed non responsive. For further information regarding specific guidelines for the evaluation of proposals see RFP section 11.6 below.

- 8.2 The evaluation team will evaluate and rank the proposals according to the assigned weights indicated below. In the process of ranking the proposals, Facilities Services staff may contact client references included in the proposals, in order to verify past experience and performance of the prospective Proposer, their key personnel, and their key sub-contractors, as appropriate.
- 8.3 An evaluation team of Facilities Services staff will evaluate the proposals on a 100 point scale using the criteria set forth in the table below. Award, if made, will be to the highest-scored proposal, which is responsive.
- 8.4 Qualifications to be evaluated and ranked based on the following:

WEIGHT	QUALIFICATIONS TO BE EVALUATED
30%	Reasonableness of <b><u>price proposal</u></b> including discounts from any published price lists that are offered.
20%	<b><u>Quality of the Methodology</u></b> described in your firm’s proposal; Ability to meet the <b><u>Report Requirements</u></b> as outlined in RFP Section 3.0, “Scope of Services”.
15%	<b><u>Turnaround times</u></b> to complete orders for services.
11%	<b><u>Prior breadth of experience</u></b> , as evidenced by your firm’s proposal responses; <b><u>Credentials of staff</u></b> your firm proposes to assign to the Judicial Council account as evidenced by your firm’s proposal, resumes submitted, and client references.
11%	<b><u>Quality assurance process</u></b> ; <b><u>Process for insuring responsiveness</u></b> to Judicial Council questions; Ability to meet the <b><u>Delivery/Approval of Reports by the Judicial Council</u></b> as outlined in RFP Section 3.6, <b><u>Approval of Reports by DGS</u></b> as outlined in Section 3.7, administrative services as outlined in Section 3.8(a.)(b.).
10%	Ability to provide <b><u>service coverage</u></b> in one or more of the counties within the State;  Ability to perform work using qualified <b><u>local appraisers</u></b> in the counties for which your firm has indicated it can provide appraisal services.
3%	DBVE Incentive Points, see RFP Section 11.0, Disabled Veteran Business Enterprise.

If a contract will be awarded, the Judicial Council will post a notice of intent to award at:  
<http://www.courts.ca.gov/rfps.htm>

## 9.0 REFERENCE CHECKS

The Proposer shall provide three (3) client references that must be from recently completed projects. Please include the following with each client reference: name of entity/firm, contact person, their phone

number/email, project title, location, and start/end dates. The Judicial Council will contact the references to conduct a customer satisfaction survey. Responding clients will be asked to score the following: Proposer's quality of work, scheduling practices, project and subcontractor management, working relationships, and paperwork processing. Reference responses will be scored from one (1) – unsatisfactory to five (5) – excellent. Reference evaluation forms will be totaled and be applied as indicated in Section 8.0.

## **10.0 DISABLED VETERAN BUSINESS ENTERPRISE INCENTIVE**

Qualification for the DVBE incentive is not mandatory. Failure to qualify for the DVBE incentive will **not** render a proposal non-responsive.

- 10.1 Eligibility for and application of the DVBE incentive is governed by the Judicial Council's DVBE Rules and Procedures. Service Provider will receive a DVBE incentive if, in the Judicial Council's sole determination, Service Provider has met all applicable requirements. If Service Provider receives the DVBE incentive, a number of points will be added to the score assigned to Service Provider's proposal.
- 10.2 To receive the DVBE incentive, at least 3% of the contract goods and/or services must be provided by a DVBE performing a commercially useful function. Or, for solicitations of non-IT goods and IT goods and services, Service Provider may have an approved Business Utilization Plan ("BUP") on file with the California Department of General Services ("DGS").
- 10.3 If Service Provider wishes to seek the DVBE incentive, Service Provider must submit with its proposal a DVBE Participation Form, (Attachment K) completed and signed. If awarded the Agreement, Service Provider may not assign or subcontract its rights or duties under the Agreement, without the prior written consent of the Judicial Council. The Service Provider shall not include subcontractors under this request for proposal; accordingly, there is no need for DVBE subcontractors to complete and sign a DVBE Declaration or the DVBE Participation Form.
- 10.4 If Service Provider is itself a DVBE, wishes to claim the DVBE Incentive in this solicitation, it must complete and submit with its proposal the Bidder's Declaration (Attachment J). Service Provider must submit with the Bidder Declaration all materials required in the Bidder Declaration. If the Service Provider does not wish to claim the DVBE incentive, Service Provider should not complete the Bidder Declaration.

## **11.0 ADMINISTRATIVE RULES GOVERNING THE RFP / PROTEST PROCEDURES**

### 11.1 General

- a. This solicitation (the "RFP") (including, without limitation, any modification made thereto in the course of the solicitation), the evaluation of materials to be submitted in response to this solicitation (the "Proposal(s)"), the award of any contract, and any issues to be raised with regards to this solicitation or to these Administrative Rules Governing Requests for Qualifications/Proposals themselves (the "Administrative Rules") shall be governed by these Administrative Rules. By the act of submission of a Proposal, prospective Service Providers agree to be bound by these Administrative Rules. If a prospective Service Provider has objections to the Administrative Rules, they must be dealt with in accordance with the provisions of Section 11.2 below.
- b. In addition to explaining the Judicial Council's requirements and needs for goods and/or services, the RFP includes instructions which prescribe the format, content, and the date

and time for the Proposals that are being solicited. Service Providers must adhere to all instructions provided in the RFP when submitting Proposals.

#### 11.2 Errors in the RFP or Administrative Rules

- a. If a prospective Service Provider who desires to submit a Proposal discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFP; is of the opinion that the structure of the RFP does not provide a correct or optimal methodology for the solicitation of the goods and/or services sought; believes that one or more of the RFP's requirements is onerous or unfair; believes that the RFP unnecessarily precludes less costly or alternative solutions; or has objections to these Administrative Rules, the prospective Service Provider must, at least two (2) full business days before the due date of the Proposals, provide the Judicial Council with written notice of the same. The written notice shall be accompanied by a written explanation of why the prospective Service Provider is of the opinion that the RFP or the Administrative Rules should be changed, as well as a written description of the modification sought. Said written notice must be in the form of an e-mail submitted to the e-mail address established for the submission of questions in the RFP. Failure to provide the Judicial Council with such written notice as specified above on or before the time specified above forfeits the prospective Service Provider's right to raise such issues later in the solicitation process.
- b. Without disclosing the source of the request, the Judicial Council will evaluate the request and will, prior to the date established for submission of the Proposals, at its sole discretion determine if it chooses to modify the RFP. If any modification is made, it will be published by the Judicial Council to the Judicial Council's website advertising the solicitation.
- c. If a prospective Service Provider submitting a Proposal knows of (or if it can be reasonably demonstrated should have known of) an error in the RFP but fails to notify the Judicial Council of the error as prescribed above, the prospective Service Provider is submitting a Proposal at its own risk, and, if awarded the work, shall not be entitled to additional compensation or time for performance by reason of such error later identified, or by reason of its later correction by the Judicial Council.

#### 11.3. Questions and Confidential or Proprietary Information

- a. Prospective Service Providers are entitled to ask questions about the RFP and the nature of the goods and/or services being solicited in accordance with the procedure for the submission of such questions specified in the RFP. Except as otherwise specified below, the Judicial Council's responses to questions submitted shall be published to the public website for the procurement.
- b. Any material that a prospective Service Provider considers to be confidential but that does not meet the disclosure exemption requirements contained in Rule 10.500 of the California Rules of Court may in fact be made available to the public as a public record, and prospective Service Providers are hereby advised not to include such information in their Proposals.
- c. PROPOSALS ARE SUBJECT TO DISCLOSURE PURSUANT TO APPLICABLE PROVISIONS OF THE CALIFORNIA PUBLIC CONTRACT CODE AND RULE 10.500 OF THE CALIFORNIA RULES OF COURT. The Judicial Council will not disclose (i) social security numbers, or (ii) balance sheets or income statements submitted by a

Proposer that is not a publicly-traded corporation. All other information in proposals will be disclosed in response to applicable public records requests. Such disclosure will be made regardless of whether the proposal (or portions thereof) is marked "confidential," "proprietary," or otherwise, and regardless of any statement in the proposal (a) purporting to limit the Judicial Council's right to disclose information in the proposal, or (b) requiring the Judicial Council to inform or obtain the consent of the Proposer prior to the disclosure of the proposal (or portions thereof). Any proposal that is password protected, or contains portions that are password protected, may be rejected. Proposers are accordingly cautioned not to include confidential, proprietary, or privileged information in proposals.

#### 11.4 Addenda

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

#### 11.5 Withdrawal and Resubmission of Proposals

- a. A prospective Service Provider may withdraw its Proposal, but only in its entirety, at any time prior to the deadline for submitting Proposals by notifying the Judicial Council in writing of its withdrawal. Any such notice of withdrawal must bear the signature of an individual and assert that that individual has the requisite authority from their organization to make such a withdrawal. Withdrawals must be made in writing, and must be submitted as a PDF document by e-mail to the e-mail address established for the submission of questions in the RFP document.
- b. A prospective Service Provider who has withdrawn a Proposal may thereafter submit a new Proposal, provided that it is received at the Judicial Council no later than the Proposal due date and time specified in the RFP.
- c. Withdrawals made in any other manner, regardless of whether oral or written, will not be considered, and, if received, will not be accepted as valid.
- d. Proposals cannot be withdrawn after the Proposal due date and time specified in the RFP.

#### 11.6 Proposal Compliance

- a. In accordance with the provisions of the RFP, an evaluation will be made of all Proposals rightfully received, to determine if they are complete with regard to the materials required for submission by the RFP and to determine if they otherwise comply with the requirements established in the RFP.
- b. If a Proposal submitted is incomplete with regards to the materials required for submission or fails to meet any other material requirement of the RFP, the Proposal will be rejected. A requirement will be judged to be material to the extent that it is not responsive to or is not in substantial accord with requirements of the RFP. Material deviations cannot be waived.

- c. The Judicial Council, at its sole discretion shall have the right to waive immaterial deviations of Proposals with regards to the materials submitted as well as other immaterial deviations from the requirements of the RFP.
- d. The Judicial Council's waiver of an immaterial deviation for one prospective Service Provider shall in no way act to excuse that prospective Service Provider from material compliance with any other RFP requirement. The Judicial Council's waiver of an immaterial deviation for one prospective Service Provider shall in no way act to excuse other prospective Service Provider(s) from material compliance with that same requirement.
- e. Proposals that make false or misleading statements or contain false or misleading information may be rejected, if, in the Judicial Council's sole opinion, the Judicial Council concludes that said statements and/or information were intended to mislead the Judicial Council.
- f. During the evaluation of the Proposals, the Judicial Council has the right to require a prospective Service Provider's representative(s) to answer questions with regard to the Proposal submitted. Failure of a prospective Service Provider to demonstrate that the claims made in its Proposal are in fact true may be sufficient cause for deeming a Proposal to be materially in non-compliance with the requirements of the RFP.

#### 11.7 Proposals: Rejection, Negotiation, Selection Rights

- a. In accordance with the provisions of the RFP, the Judicial Council may reject any or all Proposals.
- b. The Judicial Council reserves the right to negotiate the content of the Proposal proposed with individual prospective Service Providers if it is deemed in the Judicial Council's best interest.
- c. The Judicial Council reserves the right to make no selection if Proposals are deemed to be outside the fiscal constraints of, or against the best interest of, the state of California.

#### 11.8 Award of Contract

- a. Award of contract, if made, will be in accordance with the provisions of the RFP except to the degree that any immaterial deviation(s) have been waived by the Judicial Council.
- b. The actual execution of contracts is subject to availability of the funds necessary to pay for the good and services by the state of California through its budgeting and appropriations methods. The Judicial Council makes no guarantee of funding through its solicitation for goods and/or services via an RFP.

#### 11.9 Execution of Contracts

- a. The Judicial Council will make a reasonable effort to execute a contract for the goods and/or services solicited in the RFP within the time specified in the RFP, or, if no time has been specified in the RFP, within thirty (30) calendar days following the date of publication of award. Exceptions to the contract documents posted with the RFP that are raised by a prospective Service Provider may delay the execution of contracts. If the negotiation of exceptions raised results in a delay of the planned time of execution past

the time period allowed for as specified above (unless otherwise extended in writing by the Judicial Council), the Judicial Council, at its sole discretion, shall have the right to disqualify the award made.

- b. By submitting a Proposal, a prospective Service Provider consents to the use of the form of contract posted with the RFP rather than its own contract form. Questions about and major exceptions to the contract form should be submitted as questions in accordance with the provisions for the raising and answering of questions as given in the RFP, and not following notification of an award. The Judicial Council will make reasonable attempts to answer such questions, however, the contract will not be executed until after the award is made, and prospective vendors shall not construe the Judicial Council's responses to questions as the Judicial Council's final position on a question raised, nor rely on the Judicial Council's answers as a guarantee of a later successful negotiation of terms.

#### 11.10 Protest Procedure

- a. All protests are subject to, and shall follow, the process provided below.
- b. Failure of a prospective Service Provider to comply with any of the requirements of the protest procedures set forth in this Section 11.10 will render a protest inadequate and will result in rejection of the protest by the Judicial Council. Such failure and subsequent rejection shall act to further forfeit the right of the prospective Service Provider to continue the protest, and is not appealable under this protest procedure.
- c. A protest may only be based upon allegedly restrictive requirement in the RFP or upon alleged improprieties in regard to the Judicial Council's execution of its responsibilities with regard to receipt and evaluation of the Proposals, or grant of award(s) but only as such responsibilities are specified in the RFP document.
- d. Protests Based On Allegedly Restrictive Requirements:

Protests alleging restrictive requirements in the RFP must be submitted and will be subject exclusively to the provisions of Section 11.2 of these Administrative Rules. Any protest alleging restrictive requirements in the RFP raised later than as specified in Section 11.2 will not be considered a valid protest, will be rejected by the Judicial Council, and the prospective Service Provider shall have no further recourse under this procedure, including no further right of appeal.

- e. Protests Based on Alleged Improprieties in Regard to the Judicial Council's Execution of its Responsibilities:

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

- i. If a Proposal is rejected because of an alleged failure to provide the Proposal to the Judicial Council on or before the date and time due, and/or to the place



required, and/or to otherwise properly provide the Proposal with regard to any other requirement necessary to make a correct submission as specified by the RFP, the prospective Service Provider may file a protest. Said protest must provide verifiable documentation that it has submitted a Proposal in compliance with all the RFP's directives regarding timeliness, place of delivery and/or other required aspects necessary to make a submission. Such protests must be filed within five (5) full Judicial Council business days following the date of dispatch of the notice of rejection.

- ii. If a Proposal is rejected because the Proposal submitted is incomplete with regards to the materials required to make a submission, or fails to meet any other material requirement of the RFP, the prospective Service Provider may file a protest. Said protest must provide a written explanation which alleges to reasonably demonstrate that the Proposal submitted was in fact complete and/or is in fact in compliance with the RFP requirement(s) in question. Such protests must be filed within five (5) full Judicial Council business days following the date of dispatch of the notice of rejection.
- iii. If a Proposal fails to win an award or qualify the prospective Service Provider for a short listing for further evaluation and the prospective Service Provider alleges that said failure was due to a failure of the Judicial Council to fairly and impartially execute its responsibilities with regard to evaluation and award of the work as such responsibilities were specified in the RFP, the prospective Service Provider may file a protest. Said protest must provide a written explanation which alleges to reasonably demonstrate in what manner the Judicial Council has failed to fairly and impartially execute said responsibilities. Such protests must be filed within five (5) full Judicial Council business days following the date of posting of award notices to the Judicial Council website for the RFP.

f. In order to be considered valid, all such protests:

- i. Must be submitted by e-mail to the e-mail address established for the submission of questions in the RFP document. PDF documents may accompany the e-mail as further detailed below. A hard copy must also be sent to:  

**Judicial Council – Branch Accounting and Procurement**  
**ATTN: Manager, Contracts, RFP# FS-2018-12-BD**  
**455 Golden Gate Avenue, 6th Floor**  
**San Francisco, CA 94102**
- ii. Must include the name, address, telephone and facsimile numbers, and email address of the party protesting or their representative.
- iii. Must provide the title of the solicitation document under which the protest is submitted.
- iv. Must provide a detailed description of the specific legal and/or factual grounds for the protest and all supporting documentation and evidence available to the protesting party. PDF files of documents are acceptable, but the Judicial Council reserves the right to require originals if it so deems necessary. If the protestor fails to include documentation or evidence which

- could have reasonably been provided at the time the protest is made, such failure shall act to restrict the introduction of such evidence at a later date.
- v. Must provide a detailed description of the specific ruling or relief requested.
  - vi. Must cite **all** protests that the prospective Service Provider intends to make. Failure to raise a protest in the initial protest submittal shall act to disqualify the raising of that protest at a later date.
- g. Any protest failing to meet or provide the appropriate requirements as noted above shall not be considered valid and will be rejected as non-compliant by the Judicial Council and the prospective Service Provider shall have no further recourse under this procedure, including any right of appeal.
  - h. If the course of investigation of a protest and when the Judicial Council deems necessary, the Judicial Council may request and protestor shall make best efforts to provide further evidence or documentation as requested by the Judicial Council.
  - i. The existence of a protest will in no way act to restrict the right of the Judicial Council to proceed with the procurement. The Judicial Council, at its sole discretion, may elect to withhold the contract award(s) until the protest is resolved or denied or may proceed with the award as it deems in the best interests of the state of California.

#### 11.11 Protest Decisions

- a. The protest will be forwarded to the appropriate Contracting Officer at the Judicial Council, who will assess the protest submission for compliance with the requirements of these Administrative Rules, and, if deemed a valid protest under said rules, shall examine the issues raised and materials provided. Invalid protests shall be returned accompanied with a statement detailing the aspects of the protest submitted that failed to comply with the Administrative Rules.
- b. If the protest submission is deemed valid, the Judicial Council will consider the relevant circumstances surrounding the procurement in its prescription of a fair and reasonable remedy.
- c. The Contracting Officer will endeavor to provide the protesting prospective Service Provider with a written judgment within ten (10) Judicial Council business days following the day of receipt of the protest. The judgment shall include a description of any relief or remedy that shall be provided.
- d. If awarding a remedy, the Judicial Council shall, at its sole discretion, choose to employ any or a combination of the following remedies:
  - i. Award the contract consistent with the RFP
  - ii. Extend an additional award to the protesting prospective Service Provider
  - iii. Terminate the already existing contract that resulted from the RFP and award the contract to the protesting prospective Service Provider
  - iv. Terminate the already existing contract that resulted from the RFP for convenience and re-solicit the RFP

- v. Refrain from exercising options to extend the term of the contract that resulted from the RFP and re-solicit sooner than originally planned
  - vi. Other such remedies as the Judicial Council may deem necessary and appropriate.
- e. **While the Judicial Council will endeavor to investigate the protest and provide a written response to the prospective Service Provider within ten (10) Judicial Council business days, if the Judicial Council requires additional time to review the protest and is not able to provide a response within said period of time, the Judicial Council will notify the prospective protesting Service Provider of the expected time within which it shall provide a response.**

#### 11.12 Appeals Submission

- a. The Contracting Officer's ruling and any relief specified in the ruling shall be considered the final judgment and adequate relief regarding the protest unless the protesting Service Provider thereafter seeks an appeal of the ruling or relief prescribed.
- b. All appeals are subject to, and shall follow, the process provided below.
- c. The protestor may seek an appeal of the ruling and/or relief by filing a request for appeal addressed to the Judicial Council's Senior Manager, Business Services, at the same address noted for the submission of questions in the RFP. In order to be accepted as valid, any such appeal must be received by the Judicial Council within five (5) Judicial Council business days following the date of issuance of the Judicial Council Contracting Officer's decision.

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

- i. Facts and/or information related to the protest, as previously submitted, that were not reasonably available at the time the protest was originally submitted; or
  - ii. Allegation(s) that the Contracting Officer's decision regarding the protest contained errors of fact, and that such errors of fact were significant and material factors in the Contracting Officer's decision; or
  - iii. Allegation(s) that the decision of the Contracting Officer with regards to the protest was in error of law or regulation.
- d. Appeals raising other justifications for appeal shall be rejected as non-compliant and the prospective Service Provider shall have no further recourse under this procedure, including any further right of appeal.

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

- i. Submitted by e-mail to the e-mail address established for the submission of questions in the RFP document and addressed to the Judicial Council's Senior Manager, Business Services. PDF documents may accompany the e-mail as further detailed below.

- ii. Must include the name, address, telephone and facsimile numbers, and email address of the appealing party or their representative.
- iii. Must provide the title of the solicitation document under which the appeal is submitted.
- iv. Must provide a detailed description of the specific legal and/or factual grounds for the appeal and all supporting documentation and evidence available to the protesting party. PDF files of documents are acceptable, but the Judicial Council reserves the right to require originals if it so deems necessary. If the appeal fails to include documentation or evidence which could have reasonably been provided at the time the appeal is made, such failure shall act to restrict the introduction of such evidence at a later date.
- v. Must provide a detailed description of the specific ruling or relief requested.
- vi. Must cite **all** appeals that the protesting prospective Service Provider intends to make. Failure to raise an appeal in the initial appeal submittal shall act to disqualify the raising of that appeal at a later date.

#### 11.13 Appeals Decisions

- a. The Judicial Council's Senior Manager, Business Services will assess the appeal submission for compliance with the requirements of these Administrative Rules, and, if deemed a valid appeal under said rules, shall examine the issues raised and materials provided. Invalid appeals shall be returned accompanied with a statement detailing the aspects of the appeal submitted that failed to comply the Administrative Rules.
- b. If the appeal submission is deemed valid, the Judicial Council will consider the relevant circumstances surrounding the procurement in its prescription of fair and reasonable remedy, the Judicial Council Senior Manager Business Services will endeavor to provide the appealing prospective Service Provider with a written decision within ten (10) Judicial Council business days following the day of receipt of the appeal. The judgment shall include a description of any relief or remedy that shall be provided.
- c. While the Judicial Council will endeavor to investigate the appeal and provide a written response to the prospective Service Provider within ten (10) Judicial Council business days, if the Judicial Council requires additional time to review the appeal and is not able to provide a response within said period of time, the Judicial Council will notify the appealing prospective Service Provider of the expected time within which it shall provide a response.
- d. **The judgment of the Judicial Council Senior Manager Business Services and any relief or remedy specified shall be final and are not subject to further appeal.**

#### 11.14 News Releases

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

**END OF RFP**