



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

455 Golden Gate Avenue • San Francisco, California 94102-3688
Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

ADDENDUM 2

Date	Action Requested
August 8, 2008	Please review the attached responses to questions regarding the RFQ
To	Deadline
Qualified General Contractors	See attached addendum
From	Contact
Judicial Council of California	occm_solicitations@jud.ca.gov
Administrative Office of the Courts, Office of Court Construction and Management	
Subject	
Addendum No. 2 Request for Qualifications for Prequalification of General Contractors for the Portola/Loyalton Courthouse Solicitation Number: OCCM-FY2008-02	

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1. Application for Prequalification of General Contractors, Part IV (Page 15). Delete the introductory paragraph to Part IV and replace with the following:

“Provide information on projects completed or currently in progress that demonstrate your organization’s experience with projects of similar scope, size and complexity. Provide specific project related experience, relevance of scope, size and complexity. Please label responses consistent to the categories listed below and include project name, location, construction value, and owner contact information.”

2. Application for Prequalification of General Contractors, Part IV, Sample Format (Page 17). Delete the following note at the bottom of the page:

“NOTE: Include information to address all the previously listed categories; security systems, project management, quality control, key personnel and safety program.”

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3. Exhibit C: General Conditions for the Contract for Construction, Document 00700, Article 9, Disputes and Claims. Please delete Article 9 in its entirety and replace with Article 9, Disputes and Claims, Addendum 2 below:

“ARTICLE 9 - DISPUTES AND CLAIMS

9.1 DISPUTE AND CLAIM PROCEDURES

9.1.1 Dispute as to Contract Requirements: When the Contractor and the State fail to agree whether or not any work is within the scope of Contract requirements, the Contractor shall immediately perform such work upon receipt of a written notice to do so by the State. Within 14 days after receipt of such notice to perform disputed work, the Contractor may submit a written protest to the State, specifying in detail in what particulars Contract requirements were exceeded, and approximate change in cost resulting so that the State will have notice of a potential Claim. Failure to submit a protest within the specified period shall constitute a waiver of any and all rights to an adjustment in Contract Sum and Contract Time due to such work, and the Contractor thereafter shall not be entitled to adjustment of Contract Sum or Contract Time. For any such work that is found to exceed Contract requirements, there shall be an adjustment in Contract Sum and Contract Time on same basis as any other change in the Work.

- .1 The Contractor shall provide supporting data and shall provide and maintain records of costs attributable to Disputes in similar manner as for Change Orders in Article 6.
- .2 The State’s Representative and the Contractor’s Superintendent will make every reasonable effort to resolve the Dispute prior to proceeding to the next step.
- .3 Either the State or the Contractor may call a special meeting for the purpose of resolving the Dispute. Such a meeting will be held within 7 days of written request thereof.
- .4 If the Dispute as to the Contract Documents has not been resolved, the Contractor shall, within 14 days after the special meeting, take one or more of the following actions:
 - .1 submit additional supporting data requested by the State;
 - .2 modify the initial Dispute; or
 - .3 notify the State that the initial Dispute stands as is.
- .5 If the Dispute has not been resolved within 7 days after the Contractor’s action in response to Clause 9.1.1.4, another meeting may be scheduled, at the State’s option, with senior management personnel of the State and the Contractor. The purpose of this meeting is to resolve the Dispute prior to proceeding to the action under Subparagraph 9.1.2.

9.1.2 Claim Submission and Documentation: If a Dispute has not been resolved at the senior management level, the Contractor shall submit within 30 days a Claim along with detailed documentation required by Subparagraph 9.1.1 for the State’s consideration.

- .1 The Contractor shall furnish 3 certified copies of the required Claim documentation. The Claim documentation shall be complete when furnished. The evaluation of the Contractor's Claim will be based upon State records and the Claim documents furnished by the Contractor.
- .2 Claim documentation shall conform to generally accepted accounting principles and shall be in the following format:
 - .1 General Introduction
 - .2 General Background Discussion
 - .3 Issues
 - .1 Index of Issues (listed numerically)
 - .2 For each issue
 - .1 Background
 - .2 Chronology
 - .3 Contractor's position (reason for State's potential liability)
 - .4 Supporting documentation of merit or entitlement

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- .5 Supporting documentation of damages
- .6 Begin each issue on a new page
- .4 All critical path method schedules, both as-planned, monthly updates, schedule revisions, and as-build along with the computer disks of all schedules related to the Claim.
- .5 Productivity exhibits (if appropriate)
- .6 Summary of Issues and Damages
- .3 Supporting documentation of merit for each issue shall be cited by reference, photocopies, or explanation. Supporting documentation may include, but shall not be limited to, General Conditions; General Requirements; technical Specifications; Drawings; correspondence; conference notes; shop drawings and submittals; shop drawing logs; survey books; inspection reports; delivery schedules; test reports; daily reports; subcontracts; fragmentary CPM schedules or time impact analyses; photographs; technical reports; requests for information; field instructions; and all other related records necessary to support the Contractor's Claim.
- .4 Supporting documentation of damages for each issue shall be cited, photocopied, or explained. Supporting documentation may include, but shall not be limited to, any or all documents related to the preparation and submission of the bid; certified, detailed labor records, including labor distribution reports; material and equipment procurement records; construction equipment ownership costs records or rental records; Subcontractor or vendor files and cost records; service cost records; purchase orders; invoices; Project as-planned and as-built cost records; general ledger records; variance reports; accounting adjustment records; and any other accounting materials necessary to support the Contractor's Claim.
- .5 Each copy of the Claim documentation shall be certified by a responsible officer of the Contractor in accordance with the requirements of the Contract Documents.
- .6 Should the Contractor be unable to support any part of the Claim, and it is determined that such inability is attributable to falsity of such certification or misrepresentation of fact or fraud on the part of the Contractor, the Contractor shall be liable to the State as provided for under California Government Code, Section 12650 et seq., known as the False Claims Act.
- .7 The State will render a written decision to the Contractor relative to the Claim. The State's written decision shall be final and binding on the party(ies). The State may withhold from the final payment an amount not to exceed 150 percent of the disputed amount. If there is a Surety and there appears to be a possibility of a Contractor's default, the State may, but is not obligated to, notify the Surety and request the Surety's assistance in resolving the controversy.
- .8 All issue items to be included in the Equitable Adjustment shall be a part of the Claim submitted with the required documentation under this Subparagraph 9.1.2. Issues not included in the Claim under Subparagraph 9.1.2 shall not be considered.
- .9 Mediation. Within thirty (30) days after the State renders its written decision, the Contractor may request that the parties submit the dispute to mediation. Absent a request for mediation, the State's written decision is final and binding on the parties.
- .10 Litigation. If, after mediation pursuant to Subparagraph 9.1.2.9, the parties have not resolved the dispute, the receiving party's decision made pursuant to mediation will be conclusive and binding regarding the dispute unless the submitting party commences an action in a court of competent jurisdiction to contest such decision within ninety (90) days following the conclusion of such mediation or one (1) year following the accrual of the cause of action, whichever is later. In the event of litigation of a dispute arising from or related to this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees and costs.
- .11 Continuation of Work. Pending the final resolution of any dispute arising under, related to, or involving this Agreement, Contractor agrees to diligently proceed with the performance of this Agreement, including the delivery of deliverables or providing of Services, in accordance with the AOC's instructions. Contractor's failure to diligently proceed in accordance with the AOC's instructions will be considered a material breach of this Agreement.

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#	RFQ Reference	Question	Answers
1	Application for Prequalification of General Contractors, Part IV	The first paragraph on page 15 calls for information on completed projects in the last three (3) years. Then category #1. "Relevant Projects", calls for five (5) examples of relevant projects completed the last five (5) years. Are we to supply two lists? One for similar projects in three (3) years and another for relevant projects in five (5) years.	Please see Addendum Item #1. The sentence in the introductory paragraph regarding the "six most recently completed public works projects and three largest completed private projects within the last three years" has been deleted. Please follow instructions under category #1, Relevant Projects.
2	Application for Prequalification of General Contractors, Part IV	Also in the first paragraph (page 15), direction is given to provide, as a minimum, information on six most recently completed public works projects and three largest completed private projects within the last three years. Our Company works primarily on Public Works projects and has not performed any private projects in the last three years. In light of this, should we provide information on nine public works projects?	Please see Addendum Item #1 and the response to Question 1 above.
3	Application for Prequalification of General Contractors, Part IV	Sample Format (page 17): At the bottom of the sample format sheet provided it states: NOTE: Include information to address all the previously listed categories; security systems, project management, quality control, key personnel and safety program. Are we to answer each of these categories for each past or in progress projects for which we are providing information?	Please see Addendum Item #2 that deleting note. There no need to answer each of these categories for each past or in progress project for which you are providing. Items 2, 3, 4 and 5 in Part IV need only be addressed once.

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#	RFQ Reference	Question	Answers
4	Application for Prequalification of General Contractors, Part IV	Relevant Projects (page 15): This category calls for relevant project information, including project schedule. What information are you asking for in regards to the project schedule? Are you asking for an actual project schedule or start and duration information?	Provide as requested in the schedule related lines in Sample Format on page 17. "Original Scheduled Completion Date: _ Time Extensions Granted (number of days): _____ Actual Date of Completion: _____"
5	Application for Prequalification of General Contractors, Part IV	Project Management Expertise (page 15): Do you want information on projects, similar in scope to the purposed Portola/Loyalton Courthouse, but completed outside of the time guidelines given for the similar and relevant projects?	There are no time guidelines in Item 2, Project Management Expertise. They don't have to be in the "the last five (5) years" window required in 1.Relevant Projects.
6	Application for Prequalification of General Contractors, Part IV	In addition to the Portola/Loyalton Courthouse RFQ (OCCM-FY-2008-02) we are also working on the ID/IQ General Contractors for Facility Modifications and Tenant Improvements RFQ (OCCM-FY-2008-01). This RFQ has similar direction regarding Part IV. Organization's Statement of Experience Recent Construction Projects Completed. Will the answers provided to the questions above be relevant to the ID/IQ General Contractors for Facility Modifications and Tenant Improvements RFQ?	We are happy that some Contractors are interested in both solicitations. However, we would caution Contractors to carefully review both solicitations and our responses to Contractor questions for both. Our responses may similarly clarify both but our solicitations are tailored to the two projects and so are asking for different things in some cases including in Part IV of our Application for Prequalification of General Contractors.