



Request for Qualifications and Proposals for Preconstruction Services and Construction Management at Risk Services with a Guaranteed Maximum Price.

New Hollister Courthouse

Superior Court of California

County of San Benito

The Administrative Office of the Courts, Office of Court Construction and Management seeks proposals from Construction Management firms qualified to provide services in all phases of design and construction of a new courthouse for the Superior Court of California, County of San Benito.



**ADMINISTRATIVE OFFICE
OF THE COURTS**

OFFICE OF COURT CONSTRUCTION
AND MANAGEMENT



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

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REQUEST FOR QUALIFICATIONS/ PROPOSALS

**Request for Qualifications and Proposals for
Preconstruction Services and Construction Management at Risk Services
with a Guaranteed Maximum Price.**

Date
June 16, 2009

To
Construction Management Firms

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

Project Title
New Hollister Courthouse
Solicitation Number: OCCM-FY2008-14

Send Proposals To:
Judicial Council of California
Administrative Office of the Courts
Attn: Ms. Nadine McFadden,
Business Services, 7th Floor
455 Golden Gate Avenue
San Francisco, CA 94102
*(indicate RFQ/P number and project name
on lower left corner of envelopes)*

Contact:
OCCM_Solicitations@jud.ca.gov

Schedule of Events

No.	Events	Dates (Calif. Time)
1	Pre-Proposal / Project Review Teleconference. Telephone Participants Dial: 866-837-1955	Wednesday, June 24, 2009 9:30 to 11:00 AM.
2	Deadline for submission of Proposer's Requests for Clarifications re: the RFQ/P and non-binding email of Intent to Respond.	Wednesday, July 1, 2009 3:00 PM
3	Clarifications, Modifications and/or Answers to Proposer's Questions posted on the "courtinfo" website: http://www.courtinfo.ca.gov/reference/rfp/ .	Wednesday, July 8, 2009 (estimated)
4	Proposal Due Date and Time	Wednesday, July 22, 2009 3:00 PM
5	Posting of Short Listed Proposers on courtinfo website	Wednesday, August 5, 2009 (estimated)
6	Interviews of Short Listed Proposers at AOC Offices in San Francisco, CA	Wednesday, August 19, 2009 (estimated)
7	Posting of Intent to Award on courtinfo website (estimated).	Wednesday, September 2, 2009

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- A CM Agreement for Preconstruction and Construction Phase Services
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- D Form for Submission of Questions
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- F Fee Proposal Form
- G Payee Data Record
- H General Conditions of the Contract for Construction, Document 0070
- I Cost Responsibility Matrix
- J Sustainability/LEED Description

1.0 Introduction

This Request for Qualifications and Proposal (RFQ/P) is the means for Construction Managers to submit their proposals to the AOC for the services described in this document. The RFQ/P and all associated documents and addenda are available in electronic form at <http://www.courtinfo.ca.gov/reference/rfp/>.

The Judicial Council of California, chaired by the Chief Justice of California, is the primary policy making body of the California judicial system. The Administrative Office of the Courts (AOC) is the staff agency of the Judicial Council. The Office of Court Construction and Management (OCCM), is the division of the AOC responsible for the planning, design, construction, real estate and asset management of facilities for the Superior and Appellate Courts of California.

2.0 Purpose of this RFQ/P

The AOC seeks to retain the services of a qualified Construction Manager (CM) with expertise in all phases of preconstruction and construction of public buildings as described herein, for the Project as described in article 3, Project Description. Subject to the conditions prescribed by the AOC and provided herein, the AOC is hereby soliciting Qualifications and Proposals for furnishing Preconstruction Services and Construction Management Services with a Guaranteed Maximum Price (GMAX) for the Project, as described in this RFQ/P. The selected CM will apply their expertise to all aspects of the Project in collaboration with other project participants to produce a court building that provides significant value to the state judicial system. Selection will be made on the basis of a combination of qualifications and price. The AOC intends to award the CM at Risk Contract and issue a Notice To Proceed in a timely manner following the selection process.

This RFQ/P describes the Project in terms of Preconstruction Phase Services and Construction Phase services. The procurement method for the purchase of the services during the Preconstruction Phase of this Project shall be a firm fixed price proposal. The procurement method for the Construction Phase of this Project uses a procurement method that is commonly known as “Construction Manager at Risk with Guaranteed Maximum Price” (CM at Risk). This RFQ/P requests that interested firms submit a Proposal which encompasses both Phases of the Project.

In responding to this RFQ/P, all Proposers are required to adhere to all of AOC requirements provided herein. All Proposers must hold a type B general contractor license from the State of California. The AOC will contract with a single firm or entity, and the successful Proposer may not self-perform construction work or bid on subcontractor bid packages.

3.0 Project Description

A detailed description of the Project may be found in Attachment B, Project Summary and Design Concepts.

The AOC’s Actual Cost of Construction only of this Project is \$30, 064,000.

Estimated Notice to Proceed with Construction Phase: July 2010.

The Project is to be constructed in a single phase. The AOC anticipates construction duration of not more than four hundred and ninety (490) calendar days from start to final completion (including availability for occupancy of the courthouse).

The Project is being designed for sustainability and to the standards of LEED “Silver” rating including full participation in the LEED certification process from the design through construction phases. The contractor is to provide required, full documentation for LEED certification during construction phase. Submittals to USGBC, as required for certification, will be included in the scope of work of the Architect. The Project will participate in the sustainable design incentive programs sponsored by the public utility company under the responsibility for coordination by the Architect.

4.0 Responding to this Request for Qualifications/Proposal

The AOC has developed the schedule of events (see page 2) with dates showing the key dates for this solicitation process. The RFQ/P and schedule are subject to change, and the AOC does not send notifications of changes to this RFQ/P or the schedule to prospective Proposers and is not responsible for failure of any Proposer to receive notification of any change in a timely manner. Proposers are advised to visit the AOC website (<http://www.courtinfo.ca.gov/reference/rfp/>) frequently to check for changes and updates to the RFP/Q, including the Schedule. Prospective Proposers must take the following actions according to the specified timelines in order to participate in this process.

4.1 Optional: Submit Questions Prior to the Pre-Proposal Teleconference:

If your organization wishes to submit questions that will be answered at the Pre-Proposal conference, please submit your written questions, using the electronic Form for Submission of Questions that is posted as Attachment D of this RFQ/P. Please complete all sections of the form when submitting. Pay particular attention to correct identification and citation of areas of the RFQ/P about which you raise questions. Questions at this stage should address the particulars of the RFQ/P process and general questions about the overall nature of the Project. Proposers are requested to withhold highly specific questions regarding the Project until after the Pre-Proposal

Teleconference. Note: Your firm name will appear when the answers to the questions you have submitted are posted to the AOC website. Posting of answers to this initial set of questions to the AOC website will be made after the Pre-Proposal Teleconference.

All questions must be submitted using the form noted above, sent as attachments to an e-mail sent to the following e-mail address: "OCCM_Solicitations@jud.ca.gov" and must include the following in the e-mail subject line: "**CM@Risk: RFQ-P Questions + (the name of your organization)**".

4.2 Optional: Participate by Phone in the Pre-Proposal Conference:

The AOC will provide an overview of the Project, introduce key AOC personnel, and answer questions submitted in writing via email prior to the Pre-Proposal Teleconference. If time allows, other questions may be solicited and answered. Although questions will be responded to verbally, the official and binding response will be the written response posted to the AOC website.

4.3 Optional: Submit Requests for Clarifications re: the RFQ/P and Email Intent to Respond:

If your organization wishes to submit questions prior to submission of a Proposal, please submit using the form and process as described in section 4.1 above. Answers to questions will be posted to the courtinfo website on the page/link of this RFQ/P.

Email Indicating Interest: Service Providers who intend to respond to this solicitation are requested to notify the AOC by sending an email to OCCM_Solicitations@jud.ca.gov with the RFQ/P number and name in the subject line. This is not mandatory but is strongly encouraged, to assist the AOC in managing the RFQ/P process. Please include the name, address, telephone, fax number, and e-mail address of the Service Provider (firm) and contact person.

4.4 Preparing and Packaging Your Proposal:

Proposals should provide straightforward, concise information that satisfies the requirements noted in this RFQ/P. Expensive binding, color displays, and the like are discouraged. Emphasis should be placed on brevity, conformity to the AOC's instructions, selection criteria of this RFQ/P, and completeness and clarity of content. Organizing proposals using tab dividers in the order suggested below will not only help each proposer achieve the proper emphasis, but will also facilitate review and evaluation. Attachments, except as noted, will not be accepted.

Each Proposer's Statement of Qualifications (SOQ) should clearly and accurately demonstrate specialized knowledge and experience required for consideration. In one sealed envelope (clearly marked "Proposal – (firm name). Project Name, RFQ/P Number"), submit the following:

- a) five (5) copies in paper form of your Price Proposal. Submit Price Proposal in a separate sealed envelope which will be included with other materials listed below. Clearly mark the envelope "Price Proposal – (firm name). Project Name, RFQ/P Number";
- b) one (1) original of the Payee Data Record form completed in the exact legal name of the Proposer's business signed by an authorized representative of the Proposer (Do not bind Payee Data Record form into the SOQ booklets);
- c) one (1) compact disk containing the complete SOQ and Payee Data Record form;

- d) five (5) copies in paper form of the SOQ, which consists of a Cover Letter and Standard Form 330 (Parts I and II). SOQ shall be prepared in a bound 8.5" x 11" booklet format using divider tabs that correspond, in number and title, to the Standard Form 330 sections outlined below:

Tab 1. Cover Letter

Provide a cover letter that references this RFQ/P and includes Proposer's ability to quickly begin work in the Design Development Phase. Additionally, confirm that all elements of the RFQ/P have been read and understood and that the Proposer has reviewed all terms stated in the CM Agreement for Preconstruction and Construction Phase Services (Attachment A of this solicitation document) and the General Conditions of the Contract for Construction, Document 00700 (Attachment H of this solicitation document). See required initials in Attachment F (Fee Proposal Form).

- The exact legal name, address, telephone and fax numbers, and federal tax identification number of the organization proposing to do business with the AOC (or social security number if the organization is a sole proprietorship),
- The name, telephone, fax, address, and e-mail address of one business person who is the organization's designated representative,
- The name, telephone, fax, address, and e-mail address of the contracts management or legal person who will liaise with the AOC in contractual matters.

Tab 2. 330 Part I (A-D): Firm Identification

Identify the Proposer's point of contact; list proposed team comprised of the key members of Proposer's firm to be assigned to this Project, including their roles and their time, in hours, dedicated to the Project for each phase of work (one page maximum); and an organizational team chart for this Project (one page maximum). Attach a one page maximum firm description after the 330 form. If more than one firm is identified in section A-D, submit a one page description for each firm.

Tab 3. 330 Part I (E): Resumes of Key Personnel

Resumes of key personnel of the proposed team for the Project. (One page per person maximum);

Tab 4. 330 Part I (F): Examples Projects

Maximum ten (10) example projects which best illustrate firm's qualifications for the scope and size of the specific project. Indicate any projects accomplished by current firm staff conducted while under the employment of others. Indicate services performed as either Preconstruction and/or Construction Management at Risk services. Provide one attached page following the text page for each project for supporting photographs and/or graphics. Projects shall be relevant to California courts or buildings of similar complexity completed in the last ten (10) years and demonstrate the Proposer's ability and experience to successfully complete this court project. Provide Owner's information and a reference contact. (Two pages per project maximum);

Tab 5. 330 Part I (G): Key Personnel

Key personnel participation of the proposed team and their role in the project examples from section 4. (One page maximum);

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- Tab 6. 330 Part I (H): Proposed Approach
Provide a Project Plan for performing the activities specified in the Statement of Work provided in this RFQ/P. The Project Plan should be organized into three sections: Preconstruction, Guarantee of GMAX/Bidding, and Construction Management. Use these categories to group information that illustrates your firm's proposed approach to the entire CM at Risk process, indicating your strategies for quality control, issue anticipation resolution throughout the Project, your methodology for coordination and issue tracking, as well as any other information you feel is pertinent. This section shall be signed by an authorized representative of the prospective Service Provider. (Ten pages maximum);
- Tab 7. 330 Part II: General Qualifications
Provide general qualifications for the Proposer's office or branch office that is performing the work described in the RFQ. Fill in sections 1 through 9. Part 9 shall indicate current employees by discipline. Section 12 shall be signed by an authorized representative of the prospective Consultant. Items 4, 5b, 8c and 11 of Part II are not required.
- Tab 8. Technical Qualifications Questionnaire
Include completed Attachment E form here bearing an original signature from an individual with a level of authority qualified to commit your organization.
- Tab 8.1 Supporting Documentation: Safety Record
Tab 8.2 Supporting Documentation: Litigation History
- Tab 9. General Contractor License
Include a copy of your Type B general contractor license permitting your firm to perform construction work in the State of California.
- Tab 10. Financial Information
Provide one original printed (preferred) or copy of your audited and already published financial statements for three annual periods preceding the due date for your Proposal. Please be certain that the statements provided are in the same legal name as that in which you intend to do business with the AOC and not in the name of parent organizations, or include other subsidiaries.

Any questions regarding this solicitation document shall be directed in writing to the Contracting Officer for this RFQ/P process. Proposers/potential Proposers are to refrain from contacting any other AOC personnel with regards to this RFQ/P. The Business Services Manager for this solicitation process is:

Mr. George Santore
Administrative Office of the Courts, Business Services
455 Golden Gate Avenue
San Francisco, CA 94102
OCCM_Solicitations@jud.ca.gov

For Standard Form 330, please go to:
[http://contacts.gsa.gov/webforms.nsf/0/21DBF5BF7E860FC185256E13005C6AA6/\\$file/sf330.doc](http://contacts.gsa.gov/webforms.nsf/0/21DBF5BF7E860FC185256E13005C6AA6/$file/sf330.doc)

The following items will be available to download from the AOC, ftp site after June 24, 2009:

- a) Pre-design Documents
- b) CEQA/Final Initial Study and Mitigated Negative Declaration
- c) Schematic design

<https://ftp.jud.ca.gov/>

user name: occmconsultants

password: 12345

5.0 Statement of Work, Legal Terms and Conditions

The Statement of Work (S.O.W.) and legal terms and conditions applicable to the Construction Phase of the Project can be found in two places - Attachment A of this solicitation, "Standard Agreement for Preconstruction and Construction Phase Services", and Attachment H, "General Conditions Of The Contract For Construction, Document 00700."

Services generally required in Preconstruction Phase are: Input to Design and Construction Documents, Scheduling and Phasing, Value Analysis, Constructability and Peer Reviews (not code-level plan checks), Cost Control Management, Monitor Approvals, Prepare Subcontractor Bid Packages, Identify Qualified Subcontractors and Solicit Bids, Receive bids, Agreement on Guaranteed Maximum Price.

Services generally required in Construction Phase are: Execute Subcontracts, Provide Trailers and Equipment, Supervise and Direct the Work, Conduct Project Meetings, Prepare Monthly Progress Payments Application, Manage Change Order Process, Report Monthly Construction Progress, Coordinate Commissioning and Acceptance Testing, and Prepare Record Construction Documents and Closeout Project.

Note: Proposer shall only include services started at the Design Development phase and after.

6.0 Submitting Your Proposal

In order to be considered for award, the AOC requires that statements of qualifications and technical and price proposals ("Proposal(s)") shall be provided, in written form, not later than the time and date indicated in the Schedule of Events on page 2 of the most current version of this RFQ/P, to the following address:

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

Proposals are not to be submitted as e-mails. Proposals may be sent by US mail service certified mail, or overnight delivery carrier, or may be delivered in person. The Proposer assumes all risk of loss regarding any delivery method it chooses to use, and the AOC shall not be held responsible for any failure of any delivery service/method. The Proposer is solely responsible for ensuring delivery no later than the date

and time specified. The AOC will return unopened, any proposal received after the time specified in the most current RFQ/P Schedule.

7.0 Selection Process

It is the intention of AOC that its selection of the firm to provide professional construction management services for this Project shall take into consideration both the quality of the Proposer, as demonstrated by their evidenced competence and experience, and on the cost proposed to provide the services.

7.1 Proposal Evaluation Process

The evaluation team will first evaluate the Qualifications/Technical portion of the submitted Proposal to determine its responsiveness to the AOC's expressed needs, and score them as described below. The evaluation team will not be privy to the contents of the Price Proposals during this part of the evaluation process.

7.1.1 Qualifications/Technical Proposal Evaluation Process:

The Proposals received will be analyzed and scored by members of an evaluation team which will be comprised of AOC staff. Each member of the evaluation team will assign a point score according to the following grading schedule. Points assigned by the individual team members will then be averaged to determine a Total Quality Points score for each Proposer.

Financial Strength, Safety Record, and Claims Avoidance: 20 points

The Proposer has verifiable financial strength, low safety rating rates, and has successfully avoided claims and litigation on past projects.

Demonstrated Experience of the Firm: 30 points

Experience of the firm in relation to the work to be performed, including demonstrated ability to meet project budgets and schedules, demonstrated effectiveness of the quality assurance program and procedures being utilized by the firm in both Preconstruction and CM at Risk services, and the nature and quality of recently completed work.

Demonstrated Experience and Training of Project Personnel: 30 points

Demonstrated experience and training of the principals and key personnel to be assigned to the Project while performing Preconstruction and CM services on related projects and continuity of firm's proposed staff with firm.

Project Plan: 20 points

The proposed Project Plan shall demonstrate the Proposer's approach to this Project indicating a clear understanding of the purpose, service, scope, and objectives of this solicitation.

Quality Point Scoring Schedule: TOTAL POSSIBLE POINTS = 100 points

7.1.2 Short List and Interviews

The final scores will be used to create a short list of firms to be interviewed. It is intended that the short list will include at least three firms. Proposers not on the short list will not be eligible for further consideration for this Project. The interviews will be evaluated on the same criteria as the proposals. After interviews are conducted, each interview panel member will review his/her own Total Quality Points previously assigned to each Proposer on the short list and make adjustments if necessary, and the final scores will be re-calculated.

7.1.3 Price Proposal Evaluation Process

Upon conclusion of the above tasks, the Price Proposal portions will be evaluated.

In order to calculate a price for the Construction Phase Services, the Price expressed as a percent of the budgeted Cost of Construction will be multiplied by the budgeted Cost of Construction to obtain a price in dollars. To this amount the fixed prices proposed for the Preliminary Plan Phase and the Working Drawing Phase will be added, to achieve a final Total Price for evaluation purposes. The Total Price will be divided by the average of the Total Quality Points, to obtain the Cost per Unit of Quality for each Proposer. The Cost/Unit Quality figures will be compared and the Proposer with the lowest Cost per Unit of Quality shall be announced as the most responsive Proposer

$$\frac{\text{Total Price in Dollars}}{\text{Total Quality Points}} = \text{Cost Per Unit of Quality}$$

EXAMPLE Based on a Fixed Price of \$50,000 for Preliminary Plan Phase Services, a Fixed Price of \$150,000 for Working Drawing Phase Services, a budgeted cost of construction of \$10,000,000, a Proposed Price for Construction Phase Services expressed as a percent of Direct Costs of 12%, and a Total Quality Point Score of 89 points, a Proposer would be scored as follows:

$$\$50,000 + \$150,000 + (12\% \times \$10,000,000) = \$1,400,000 \text{ (Total Price in Dollars)}$$

$$\frac{\$1,400,000}{89 \text{ points}} = \$15,730 / \text{Unit of Quality}$$

The winning Proposer should be prepared to commence work immediately following execution of the legal contract provided in Appendix A. In the event an agreement cannot be reached with the selected Proposer after a reasonable amount of time, the AOC may choose to award the agreement to the next-highest ranked Proposer.

8.0 Disabled Veteran Participation Goals

The State of California requires contract participation goals of a minimum of three percent (3%) for disabled veteran business enterprises (DVBE's). The AOC is subject to this participation goal. **The AOC will require that the selected Contractor demonstrate DVBE compliance and complete a DVBE Compliance Form when bidding the Project for Construction.** If it would be impossible for the selected Consultant to comply, explanation of why and demonstration of written evidence of a "good faith effort" to achieve participation would be required. Sample information and forms follow as part of

the Administrative Rules governing the Submission of Proposals. Information about DVBE resources can be found on the Executive Branch's internal website at <http://www.dgs.ca.gov/default.htm>, or by calling the Office of Small Business and DVBE Certification at 916-375-4940.

9.0 Administrative Rules Governing this RFQ/P Process

The AOC's Administrative Rules governing the Submission of Proposals follow on the next page. By virtue of submission of a Proposal, the Proposer agrees to be bound by said Administrative Rules with regards to this RFQ/P and said Proposal. Said rules shall in no way act to limit the AOC's right to negotiate additional or different terms if it sees necessary.

The AOC reserves the right to reject any and all Proposals, in whole or in part, as well as the right to issue similar RFQ/Ps in the future. This RFQ/P is in no way an agreement, obligation, or contract and in no way is the AOC or the State of California responsible for the cost of preparing the proposal. One copy of a submitted proposal will be retained for official files and becomes a public record.

The AOC policy is to follow the intent of the California Public Records Act (PRA). If a Service Provider's proposal contains material noted or marked as confidential and/or proprietary that, in the AOC's sole opinion, meets the disclosure exemption requirements of the PRA, then that information will not be disclosed pursuant to a request for public documents. If the AOC does not consider such material to be exempt from disclosure under the PRA, the material will be made available to the public, regardless of the notation or markings. If a Service Provider is unsure if its confidential and/or proprietary material meets the disclosure exemption requirements of the PRA, then it should not include such information in its proposal.

A. General

1. This solicitation document, the evaluation of proposals, and the award of any contract shall conform with current competitive bidding procedures as they relate to the procurement of goods and services. A Service Provider's proposal is an irrevocable offer for 30 days following the deadline for its submission.
2. In addition to explaining the Administrative Office of the Courts' (AOC's) requirements, the solicitation document includes instructions which prescribe the format and content of proposals.

B. Errors in the solicitation document

1. If a Service Provider submitting a proposal discovers any ambiguity, conflict, discrepancy, omission, or other error in this solicitation document, the Service Provider shall immediately provide the AOC with written notice of the problem and request that the solicitation document be clarified or modified. Without disclosing the source of the request, the AOC may modify the solicitation document prior to the date fixed for submission of proposals by issuing an addendum to all Service Providers to whom the solicitation document was sent.
2. If prior to the date fixed for submission of proposals a Service Provider submitting a proposal knows of or should have known of an error in the solicitation document but fails to notify the AOC of the error, the Service Provider shall bid at its own risk, and

if the Service Provider is awarded the contract, it shall not be entitled to additional compensation or time by reason of the error or its later correction.

C. Questions regarding the solicitation document

1. If a Service Provider's question relates to a proprietary aspect of its proposal and the question would expose proprietary information if disclosed to competitors, the Service Provider may submit the question in writing, conspicuously marking it as "CONFIDENTIAL." With the question, the Service Provider must submit a statement explaining why the question is sensitive. If the AOC concurs that the disclosure of the question or answer would expose proprietary information, the question will be answered, and both the question and answer will be kept in confidence. If the AOC does not concur regarding the proprietary nature of the question, the question will not be answered in this manner and the Service Provider will be notified.
2. If a Service Provider submitting a proposal believes that one or more of the solicitation document's requirements is onerous or unfair, or that it unnecessarily precludes less costly or alternative solutions, the Service Provider may submit a written request that the solicitation document be changed. The request must set forth the recommended change and Service Provider's reasons for proposing the change. Any such request must be submitted to the AOC by the date and time listed in this RFP for "Deadline for submission of Proposer's Requests for Clarifications, Modifications or Questions regarding the RFQ/P".

D. Addenda

1. The AOC may modify the solicitation document prior to the date fixed for submission of proposals by faxing an addendum to the Service Providers to whom the solicitation document was sent. If any Service Provider determines that an addendum unnecessarily restricts its ability to bid, it must notify the AOC no later than one day following the receipt of the addendum.

E. Withdrawal and resubmission/modification of proposals

1. A Service Provider may withdraw its proposal at any time prior to the deadline for submitting proposals by notifying the AOC in writing of its withdrawal. The notice must be signed by the Service Provider. The Service Provider may thereafter submit a new or modified proposal, provided that it is received at the AOC no later than the proposal due date and time listed in this RFP. 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 RFP.

F. Evaluation process

1. An evaluation team will review in detail all proposals that are received to determine the extent to which they comply with solicitation document requirements.
2. If a proposal fails to meet a material solicitation document requirement, the proposal may be rejected. A deviation is material to the extent that a response is not in substantial accord with solicitation document requirements. Material deviations cannot be waived. Immaterial deviations may cause a bid to be rejected.

3. Proposals that contain false or misleading statements may be rejected if in the AOC's opinion the information was intended to mislead the state regarding a requirement of the solicitation document.
4. Cost sheets will be checked only if a proposal is determined to be otherwise qualified. All figures entered on the cost sheets must be clearly legible.
5. During the evaluation process, the AOC may require a Service Provider's representative to answer questions with regard to the Service Provider's proposal. Failure of a Service Provider to demonstrate that the claims made in its proposal are in fact true may be sufficient cause for deeming a proposal non-responsive.

G. Rejection of bids

1. The AOC may reject any or all proposals and may or may not waive an immaterial deviation or defect in a bid. The AOC's waiver of an immaterial deviation or defect shall in no way modify the solicitation document or excuse a Service Provider from full compliance with solicitation document specifications. The AOC reserves the right to accept or reject any or all of the items in the proposal, to award the contract in whole or in part and/or negotiate any or all items with individual Service Providers if it is deemed in the AOC's best interest. Moreover, the AOC reserves the right to make no selection if proposals are deemed to be outside the fiscal constraint or against the best interest of the State of California.

H. Award of contract

1. Award of contract, if made, will be in accordance with the solicitation document to a responsible Service Provider submitting a proposal compliant with all the requirements of the solicitation document and any addenda thereto, except for such immaterial defects as may be waived by the AOC.
2. The AOC reserves the right to determine the suitability of proposals for contracts on the basis of a proposal's meeting administrative requirements, technical requirements, its assessment of the quality of service and performance of items proposed, and cost.

I. Decision

1. Questions regarding the AOC's award of any business on the basis of proposals submitted in response to this solicitation document, or on any related matter, should be addressed to the individual listed in the Submitting Your Proposal section of this RFP who will forward the matter to the appropriate contracting officer.

J. Execution of contracts

1. The AOC will make a reasonable effort to execute any contract based on this solicitation document within 30 days of selecting a proposal that best meets its requirements. However, exceptions taken by a Service Provider may delay execution of a contract

2. A Service Provider submitting a proposal must be prepared to use a standard state contract form rather than its own contract form.

K. Protest procedure

1. General

Failure of a Service Provider to comply with the protest procedures set forth in this Section K, will render a protest inadequate and non-responsive, and will result in rejection of the protest.

2. Prior to Submission of Proposal

An interested party that is an actual or prospective Proposer with a direct economic interest in the procurement may file a protest based on allegedly restrictive or defective specifications or other improprieties in the solicitation process that are apparent, or should have been reasonably discovered prior to the submission of a proposal. Such protest must be received prior to the Proposal Closing Time. The protestor shall have exhausted all administrative remedies discussed in this Attachment A prior to submitting the protest. Failure to do so may be grounds for denying the protest.

3. After Award

A Service Provider submitting a proposal may protest the award based on allegations of improprieties occurring during the proposal evaluation or award period if it meets all of the following conditions:

- a. The Service Provider has submitted a proposal that it believes to be responsive to the solicitation document;
- b. The Service Provider believes that its proposal meets the administrative and technical requirements of the solicitation, proposes services of proven quality and performance, and offers a competitive cost; and,
- c. The Service Provider believes that the AOC has incorrectly selected another Service Provider submitting a proposal for an award.

Protests must be received no later than five (5) business days after the protesting party receives a Non-Award letter.

4. Form of Protest

A Service Provider who is qualified to protest should submit the protest to the individual listed in the Submission of Proposals section on the coversheet of this RFP who will forward the matter to the appropriate Contracting Officer.

- a. The protest must be in writing and sent by certified, or registered mail, or overnight delivery service (with proof of delivery), or delivered personally to the address noted above. If the protest is hand-delivered, a receipt must be requested.

- b. The protest shall include the name, address, telephone and facsimile numbers, and email address of the party protesting or their representative.
- c. The title of the solicitation 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.

The AOC, at its discretion, may make a decision regarding the protest without requesting further information or documents from the protestor. Therefore, the initial protest submittal must include all grounds for the protest and all evidence available at the time the protest is submitted. If the 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 AOC will not consider such new grounds or new evidence.

5. Determination of Protest Submitted Prior to Submission of Proposal

Upon receipt of a timely and proper protest based on allegedly restrictive or defective specifications or other improprieties in the solicitation process that are apparent, or should have been reasonably discovered prior to the submission of a proposal, the AOC will provide a written determination to the protestor prior to the Proposal Due Date. If required, the AOC may extend the Proposal Due Date to allow for a reasonable time to review the protest. If the protesting party elects to appeal the decision, the protesting party will follow the appeals process outlined below and the AOC, at its sole discretion, may elect to withhold the contract award until the protest is resolved or denied or proceed with the award and implementation of the contract.

6. Determination of Protest Submitted After Submission of Proposal

Upon receipt of a timely and proper protest, the AOC will investigate the protest and will provide a written response to the Service Provider within a reasonable time. If the AOC requires additional time to review the protest and is not able to provide a response within ten (10) business days, the AOC will notify the Service Provider. If the protesting party elects to appeal the decision, the protesting party will follow the appeals process outlined below. The AOC, at its sole discretion, may elect to withhold the contract award until the protest is resolved or denied or proceed with the award and implementation of the agreement.

7. Appeals Process

The Contracting Officer's decision shall be considered the final action by the AOC unless the protesting party thereafter seeks an appeal of the decision by filing a request for appeal with the AOC's Business Services Manager, at the same address noted in the Submission of Proposal section of the coversheet of this RFP, within five (5) calendar days of the issuance of the Contracting Officer's decision.

The justification for appeal is specifically limited to:

- a. Facts and/or information related to the protest, as previously submitted, that were not available at the time the protest was originally submitted;

- b. The Contracting Officer's decision contained errors of fact, and that such errors of fact were significant and material factors in the Contracting Officer's decision; or
- c. The decision of the Contracting Officer was in error of law or regulation.

The Service Provider's request for appeal shall include:

- a. The name, address telephone and facsimile numbers, and email address of the Service Provider filing the appeal or their representative;
- b. A copy of the Contracting Officer's decision;
- c. The legal and factual basis for the appeal; and
- d. The ruling or relief requested. Issues that could have been raised earlier will not be considered on appeal.

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

8. Protest Remedies

If the protest is upheld, the AOC will consider all circumstances surrounding the procurement in its decision for a fair and reasonable remedy, including the seriousness of the procurement deficiency, the degree of prejudice to the protesting party or to the integrity of the competitive procurement system, the good faith efforts of the parties, the extent of performance, the cost to the AOC, the urgency of the procurement, and the impact of the recommendation(s) on the AOC. The AOC may recommend a combination of the following remedies:

- a. Terminate the contract for convenience;
- b. Re-solicit the requirement;
- c. Issue a new solicitation;
- d. Refrain from exercising options to extend the term under the contract, if applicable;
- e. Award a contract consistent with statute or regulation; or
- f. Other such remedies as may be required to promote compliance.

L. News releases

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

M. Disposition of materials

- 1. All materials submitted in response to this solicitation document will become the property of the State of California and will be returned only at the AOC's option and at the expense of the Service Provider submitting the proposal. One copy of a submitted proposal will be retained for official files and become a public record. Any material that a Service Provider considers as confidential but does not meet the

disclosure exemption requirements of the California Public Records Act should not be included in the Service Provider's proposal as it may be made available to the public.

N. Payment

1. Payment terms will be specified in any agreement that may ensue as a result of this solicitation document.
2. **THE STATE DOES NOT MAKE ANY ADVANCE PAYMENT FOR SERVICES.** Payment is normally made based upon completion of tasks as provide in the agreement between the AOC and the selected Service Provider. The AOC may withhold ten percent of each invoice until receipt and acceptance of the final product. The amount of the withhold may depend upon the length of the Project and the payment schedule provide in the agreement between the AOC and the selected Service Provider.

(DVBE forms follow)

DVBE PARTICIPATION FORM

Proposer Name: _____

RFP Project Title: _____

RFP Number: _____

The State of California Judicial Branch's goal of awarding of at least three percent (3%) of the total dollar contract amount to Disabled Veterans Business Enterprise (DVBE) has been achieved for this Project. *Check one:*

Yes _____ (Complete Parts A & C only)

No _____ (Complete Parts B & C only)

"Contractor's Tier" is referred to several times below; use the following definitions for tier:

0 = Prime or Joint Contractor;

1 = Prime subcontractor/supplier;

2 = Subcontractor/supplier of level 1 subcontractor/supplier

PART A - COMPLIANCE WITH DVBE GOALS

Fill out this Part ONLY if DVBE goal has been met; otherwise fill out Part B.

INCOMPLETE DOCUMENTATION MAY RESULT IN DISQUALIFICATION FROM FURTHER PARTICIPATION IN SELECTION PROCESS FOR THIS SOLICITATION

PRIME CONTRACTOR

Company Name: _____

Nature of Work _____ Tier: _____

Claimed Value: DVBE \$ _____

Percentage of Total Contract Cost: DVBE _____%

SUBCONTACTORS/SUBCONTRACTOR/PROPOSERS/SUPPLIERS

1. Company Name: _____
 Nature of Work: _____ Tier: _____
 Claimed Value: _____ DVBE \$ _____

Percentage of Total Contract Cost: DVBE _____%

2. Company Name: _____
 Nature of Work: _____ Tier: _____
 Claimed Value: _____ DVBE \$ _____

Percentage of Total Contract Cost DVBE _____%

3. Company Name: _____
 Nature of Work: _____ Tier: _____
 Claimed Value: _____ DVBE \$ _____

Percentage of Total Contract Cost DVBE _____%

GRAND TOTAL: DVBE _____%

I hereby certify that the "Contract Amount," as defined herein, is the amount of \$_____. I understand that the "Contract Amount" is the total dollar figure against which the DVBE participation requirements will be evaluated.

<i>Firm Name of Proposer</i>	
<i>Signature of Person Signing for Proposer</i>	
<i>Name (printed) of Person Signing for Proposer</i>	
<i>Title of Above-Named Person</i>	
<i>Date</i>	

PART B - ESTABLISHMENT OF GOOD FAITH EFFORT

Fill out this Part ONLY if DVBE goal will not be met but you have made a good faith effort to meet such goal.

INCOMPLETE DOCUMENTATION MAY RESULT IN DISQUALIFICATION FROM FURTHER PARTICIPATION IN SELECTION PROCESS FOR THIS SOLICITATION

1. List contacts made with personnel from state or federal agencies and with personnel from DVBEs to identify DVBEs.

<i>Source</i>	<i>Person Contacted</i>	<i>Date</i>

2. List the names of DVBEs identified from contacts made with other state, federal, and local agencies.

<i>Source</i>	<i>Person Contacted</i>	<i>Date</i>

3. If an advertisement was published in trade papers and/or papers focusing on DVBEs, attach proof of publication.

<i>Publication</i>	<i>Date(s) Advertised</i>

4. Solicitations were submitted to potential DVBE contractors (list the company name, person contacted, and date) to be subcontractors. Solicitation must be job specific to plan and/or contract.

<i>Company</i>	<i>Person Contacted</i>	<i>Date Sent</i>

5. List the available DVBEs that were considered as subcontractors or suppliers or both. (Complete each subject line.)

<i>Company Name:</i>	
<i>Contact Name & Title:</i>	
<i>Telephone Number:</i>	
<i>Nature of Work:</i>	
<i>Reason Why Rejected:</i>	

<i>Company Name:</i>	
<i>Contact Name & Title:</i>	
<i>Telephone Number:</i>	
<i>Nature of Work:</i>	
<i>Reason Why Rejected:</i>	

<i>Company Name:</i>	
<i>Contact Name & Title:</i>	
<i>Telephone Number:</i>	
<i>Nature of Work:</i>	
<i>Reason Why Rejected:</i>	

PART C - CERTIFICATION (to be completed by **ALL** Proposers)

I hereby certify that I have made a diligent effort to ascertain the facts with regard to the representations made herein and, to the best of my knowledge and belief, each firm set forth in this bid as a Disabled Veterans Business Enterprise complies with the relevant definition set forth in section 1896.61 of Title 2, and section 999 of the Military and Veterans Code, California Code of Regulations. In making this certification, I am aware of section 10115 *et seq.* of the Public Contract Code that establishes the following penalties for State Contracts:

Penalties for a person guilty of a first offense are a misdemeanor, civil penalty of \$5,000, and suspension from contracting with the State for a period of not less than thirty (30) days or more than one (1) year. Penalties for second and subsequent offenses are a misdemeanor, a civil penalty of \$20,000 and suspension from contracting with the State for up to three (3) years.

**IT IS MANDATORY THAT THE FOLLOWING BE COMPLETED ENTIRELY;
 FAILURE TO DO SO WILL RESULT IN IMMEDIATE REJECTION.**

<i>Firm Name of Proposer:</i>	
<i>Signature of Person Signing for Proposer</i>	
<i>Name (printed) of Person Signing for Proposer</i>	
<i>Title of Above-Named Person</i>	
<i>Date</i>	

End of RFP Form