

Date  
October 20, 2009  
To  
Potential Proposers

From  
Judicial Council of California  
Administrative Office of the Courts,  
Office of Court Construction and Management  
Subject  
**Addendum No. 1**  
**New Porterville Courthouse**  
Solicitation Number: OCCM-2009-03

Action Requested  
Please review the Addenda item below  
Please review Q&A below:  
Contact  
[occm\\_solicitations@jud.ca.gov](mailto:occm_solicitations@jud.ca.gov)

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1. Replace Attachment F, Fee Proposal Form, in its entirety and replace with the attached, Attachment F, Fee Proposal Form, Addendum 1
2. Exhibit G of Attachment A, change Construction Budget to **\$64,609,000**

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 CM at Risk  
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#	RFQ Reference	Question	Answers
1	Attachment H, General Conditions Section 11.1.2.4	<p>Builder's Risk Insurance, requires insurance with limits of liability equal to the final completed value of the Project. This Section further states, "The insurance shall apply to physical loss or damage to the insured property and shall include coverage for flood, water damage, and, if available at commercially affordable costs as reasonably determined by the AOC, earthquake and earth movement.</p>	<p>There's no question to answer.</p>
2	Attachment F, Fee Proposal	<p>The Construction Phase Services Price included in Attachment F will identify the cost of those services as determined by each Proposer. Those services include the cost of insurance as set forth in GC 11.1 including the earthquake insurance. However, since the cost of the insurance is included in the Construction Phase Services Price, there is no way for the AOC to determine if the earthquake insurance is "commercially affordable" as described in GC 11.1.2.4.</p> <p>In order to facilitate the AOC's evaluation of the cost of earthquake insurance and in consideration of the considerable cost of this insurance, we would suggest that the AOC modify Attachment F to include the cost of the earthquake insurance at the full value of the Project as an Alternate Price. The Construction Phase Services cost would exclude earthquake insurance but the cost of this insurance would be identified by each Proposer in the Alternate Price. This will allow the AOC to evaluate the commercial affordability of this insurance.</p>	<p>For the construction of the new Porterville Courthouse, and with the AOC reserving the right to provide the builders risk insurance as allowed for under Article 11.2 of the General Contract for Construction, Document 00700, the cost for builders risk insurance, including coverage for damage resulting from earthquake, should be included in Construction Phase Services in attachment F.</p>

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3	RFQ/P	When will the plan check be performed for this project?	The Title 24 plan check will be performed upon completion of the Construction Documents
4	RFQ/P	Will there be a separate RFQ for plan check services?	There is no plan for a separate RFQ.
5	330 Part I (A-D): Firm Identification	Are Joint Venture firms eligible to submit as a CM at Risk?	Yes
6	330 Part I (F): Example Projects	Assuming Joint Venture firms are eligible to submit, is the Joint Venture allowed to submit example projects of the individual firms as example projects of the Joint Venture?	Yes
7	Attachment C – Construction Phase Scope Detail	Is CM @ Risk responsible for providing Office Trailer / Space for any entity other than itself? If so, please provide requirements, including temporary services and furnishings if applicable; i.e. power, data, phone, water, desks, chairs, plan tables, filing cabinets, etc.	Please refer to Attachment C. These are all responsibilities of the CM@Risk.

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#	RFQ Reference	Question	Answers
8	RFQ/P Section 3 Project Description	<p>Quote: "The Project is subject to the completion of the environmental review process under the California Environmental Quality Act (CEQA). Accordingly, the AOC will not enter into a CM@Risk agreement until such time as the CEQA review process for the project has been completed, and the statute of limitations for any legal challenge to the environmental review under CEQA has passed without any such legal challenge having been filed"</p> <p>Question 1: Provide the AOC's anticipated timing and date for the CEQA review process to be complete and the date of expiration of statute of limitations</p> <p>Question 2: Provide anticipated timing of award of a contract agreement for Preliminary Plan Phase in conjunction with the answer to question 1 above.</p>	<p>Question 1: CEQA is complete.</p> <p>Question 2: There is no timing involved because CEQA is complete. Our Designer of Record is already under contract for the Preliminary Plans Phase and we are looking to bring the successful proposer on this RFQ/P under contract soon after award.</p>

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9	RFQ/P Section 7.1.3 Attachment A, Exhibit B, B.1. (iii) item "Payment Provisions" page B-1 Attachment F	<p>Quote A: RFQ/P Section 7: "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"</p> <p>Quote B " Compensation – Construction Phase Services (NIC)"</p> <p>Construction phase services            \$ _____            (See Exhibit H, Article 6.72.            Based on ____% x            \$ _____,</p> <p>(ii) In the event that direct cost of work as result of accepted bids and alternates varies from the amount shown in (i) above the construction phase services shall be recalculated by multiplying the total direct cost of work by _____.</p> <p>Question: Construction Phase compensation is calculated by multiplying the percentage X the direct cost of the work.</p> <p>If the actual direct costs are significantly below the published budget, the successful proposers Construction Phase Services amount is reduced accordingly. Thus, the incentive for the successful proposer to provide value ideas during the Preliminary Plan and Working Drawing Phases that significantly reduce the direct costs (thus lowering their potential compensation) may be negated. Will the AOC consider using LS for the GC portion of the Construction Phase Services with % for fee and insurance instead?</p>	<p>No. Please find the attached Attachment F, Addendum 1, with our <b>estimated</b> direct cost of the work provided.</p> <p>Our determination of the fee for Construction Phase Services remains as stated.</p>

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#	RFQ Reference	Question	Answers
10	Attachment C, Miscellaneous Project Costs, Item #1 Attachment H Article 11.3.1	Article 11.3.1 states "The cost for these bonds shall be a Reimbursable Expense and shall be specified on the first payment request" Attachment C includes "Premium-GC Bond and Insurance as "Construction Phase Services" cost. Confirm if GC bond cost is in accord with Article 11.3.1	The GC bond cost is reimbursable in conformance with Article 11.3.1.
11	Attachment H, Article 7.3.3	Article 7.3.3 states "Damages suffered by others or other forms of liability claimed against the State as a result of delay....Contractor shall be responsible for the actual amount of any such damages" is a broad range of damages not to be included in the Liquidated Damages. We request the AOC to limit the damages to the Liquidated Damage amounts stipulated and include a mutual waiver of consequential damages.	The article stands as stated.

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#	RFQ Reference	Question	Answers
12	Attachment F page 3 of 4 Exhibit A, Attachment A, Article .4 A 16 (iii)(c)	<p>Exhibit A, Attachment A states "Avoiding change orders to construction contracts, which are caused by conflicts, ambiguities, inaccuracies, and deficiencies in the construction drawings and specifications"</p> <p>Attachment F states "Costs incurred due to conflicts and ambiguities in the contract documents, and any issues arising from a lack of coordination among and within the subcontractors' bid packages, and for any construction phase change orders arising from subcontractors' performance, in excess of the CM's 3% contingency shall be borne by the CM"</p> <p>Question: Please confirm that the Contractor Contingency is not to be used, and CM @ Risk will not be responsible for, conflicts, ambiguities, inaccuracies and deficiencies resulting from the Designer's failure to design to code or to engineer systems to function sufficiently for their intended use.</p>	<p>The Contractor Contingency is the contingency identified in the Agreement which is to be used by the Contractor to pay for change orders or extra work due to conflicts, ambiguities or omissions in the Contract Documents or in the subcontractor bid packages.</p> <p>The role of the CM@Risk during the design phases, as defined in Attachment A, CM Agreement for Preconstruction and Construction Phase Services, is to provide diligent review of the design and construction documents for constructability and completeness only, to minimize change orders during the course of construction.</p>

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13	Exhibit A, Attachment A, Article .4 B. 1 (ii)	<p>Contractor shall demonstrate to the satisfaction of the AOC and shall certify in writing to the AOC, that the Design Documents and/or Construction Documents, at the end of each of these stages, are in conformance with the requirements of the Project Program and quality standards set by the AOC, and that Contractor's current total cost estimate for construction of the Project is equal to or less than the Construction Budget</p> <p>Question: Is it the intent of the AOC to obligate the CM @ R to "certify" that the documents created by the design team contracted to the AOC are in conformance with the requirements of the project program and quality standards set by the AOC. This is the obligation of the Architect of Record, not the CM@R?</p>	<p>The Contractor's tasks are as written.</p> <p>The CM@Risk will be conducting <u>constructability reviews</u> and will certify that documents created by the design team (of which the CM@Risk is a member at that point) are in conformance with the requirements of the project program and quality standards set by the AOC from a constructability standpoint.</p>
14	Exhibit A, Attachment A, Article .4 c. 4 (ix)	Request clarification of "Notwithstanding AOC's review of the bid packages, Contractor warrants the bid packages developed shall conform to the provisions of this Agreement. Any omissions, errors, or ambiguities in the bid packages shall be construed against the Contractor and in favor of the AOC" is applicable only to errors in the bid packages prepared by the CM@R, not design omissions, errors or ambiguities contained in the contract documents prepared by the Architect of Record.	<p>Within the context of creating bid packages the CM@Risk is responsible for any omissions, errors or ambiguities in the bid packages.</p> <p>The CM@Risk in the Subcontractor Bidding Phase is assembling Contract Documents into biddable Bid Packages. Any errors, omissions or ambiguities referred in this Exhibit A, Attachment A, Article .4 c. 4 (ix) refers to this process.</p>



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15	Exhibit A, Attachment A, Article .4 A 13 (iii)(c)	Request clarification of contractor's obligations under item 4A.13, of the Statement of Work. What does the AOC require of the contractor in order to assist the architect in providing the Construction Documents? What does the AOC require of the contractor to review the Construction Documents for conformance with applicable statutes, codes, regulations, etc.?	The role of the CM@Risk during the design phases, as defined in Attachment A, CM Agreement for Preconstruction and Construction Phase Services, is to provide diligent review of the design and construction documents for constructability and completeness only, to minimize change orders during the course of construction.
16	Attachment H – General Conditions, Article 11.1.2.4 Attachment C, Miscellaneous Project Costs, Item #1	Article 11.1.2.4 states "The Builder's Risk Insurance may exclude loss resulting from, war and related causes, terrorism resulting from nuclear, biological or chemical materials, nuclear perils, dishonest acts of employees, mysterious disappearance, ordinary wear and tear, and with the prior consent of the AOC earthquake and earth movement."  Question: Request confirmation that AOC requires inclusion of earthquake and earth movement in our costs for the BR insurance specified in Exhibit C as "construction phase service" under the category "Premium-GC bond and Insurance Costs" or will this be considered a reimbursable expense as asked in our questions #5 above?	For the construction of the new Porterville Courthouse, and with the AOC reserving the right to provide the builders risk insurance as allowed for under Article 11.2 of the General Contract for Construction, Document 00700, the cost for builders risk insurance, including coverage for damage resulting from earthquake, should be included in Construction Phase Services in attachment F.
17	Attachment A – Exhibit B.2.D	This item relieves the requirement to pay interest on late payments per CA Public Contract Code Section 20104.50. Can this be modified to include the payment of interest for late payments?	No. The Judicial Branch is not subject to the California Public Contract Code.
18	RFQ/P Item 3.0 Project Description	Has the Project already been registered with the USGBC for version 2.2 of the LEED standards?	No

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19	Attachment H – Article 2.3.1.1 and Article 2.3.1.2	Can the duration between notice and the AOC's ability to take action be modified to 14 days in lieu of 5 days to allow time for notification to and action by subcontractors and/or vendors?	No
20	Attachment H – Article 3.1.5	Please confirm that an Acquisition Phase including geotechnical investigation, hazardous materials investigation and site investigation including a remedial plan will occur during the Preliminary Plan Phase to allow sufficient information to be included in the bid documents for the Construction Phase.	Confirmed
21	Attachment H – Article 3.10.9	Can the last sentence be modified to read as follows: "In such an event, the Contractor shall not be entitled to receive a time extension or delay damages until all AOC-caused timesavings are exceeded and the contract completion date is <i>projected</i> to be exceeded <i>and substantiated via the approved Work Schedule.</i> "	No
22	Attachment H – Article 7.3.3	Can the second sentence of this article be deleted and replaced with the following: "Liquidated damages shall not be deemed to include within their scope additional damages arising from defective work."	No
23	Attachment H – Article 7.3.4	Can this article be deleted to allow the Contractor the ability to remedy work that has fallen behind schedule? If not, can the article be modified to read as follows: "Should the Contractor fall behind the approved Work Schedule, the State reserves the right to deduct an amount equal to the potential liquidated damages associated with the estimated completion date from the Contractor's progress payments until such time the delay is remedied."	No

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24	Attachment H – Article 7.4.3	Please confirm that extended general conditions will be allowed with the approval of a time extension.	That would be on a case by case basis.
25	Attachment H – Article 7.4.3	Please confirm that additional costs associated with engineering and inspection for a time extension granted by the AOC will be paid by the AOC.	Article 7.4.3 reads: During such extension of time, extra compensation for engineering and inspection will be charged to the Contractor.
26	Attachment H – Article 11.2	Please confirm that since the option of an OCIP is a consideration for the project, the cost of all insurance including Builder's Risk should not be part of the cost of work rather than as a portion of the percentage for the CM at Risk Construction Phase Services.	The insurance required under Article 11.1 of the General Contract for Construction, Document 00700, should be included as Construction Phase Services in attachment F, and as stipulated in Article 11.2.1.10 of Document 00700 may later be required to be credited against the Construction Phase Services should the AOC implement an owner controlled insurance program.
27	Attachment C	The following items are included in the attachment as part of the CM at Risk Fee: Recycling/Trash Dumpster Removal/Hauling, Trash Chute and Hopper, Barricades, Opening Protection, Drinking Water/Cooler/Cups, Safety First Aid Supplies, Storage Trailer and Tool Shed Rental, and Safety Railing and Nets. Please confirm if these items can be included as a part of the cost of work as they relate to the Subcontractors' scope of work.	No
28	Attachment C	Is a full time security guard watchman service required?	The CM@Risk has full responsibility for securing the site.

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29	Attachment H – Article 11.1.2.4	Is the Builder's Risk Insurance Premium to be included as part of Construction Phase Services Fee? If yes, Is earthquake and earth movement coverage to be included or not? Also regarding the earthquake insurance coverage, please confirm if CA Public Contract Code section 7105 applies to this Project. If earthquake coverage is not to be included in the Builder's risk insurance, please confirm that any earthquake damage caused to the project will be the Owner's responsibility.	<ol style="list-style-type: none"> <li>1. Public Contract Code section 7105 does not apply to the construction of the new Porterville Courthouse.</li> <li>2. For the construction of the new Porterville Courthouse, and with the AOC reserving the right to provide the builders risk insurance as allowed for under Article 11.2 of the General Contract for Construction, Document 00700, the cost for builders risk insurance, including coverage for damage resulting from earthquake, should be included in Construction Phase Services in attachment F.</li> </ol>
30	Attachment H – Article 11.3.1	The subject article states that the cost for the GC's Payment and Performance Bonds is reimbursable. Please confirm that the subject Bond premiums are <b>not</b> to be included in the Construction Phase Services Fee.	The cost of performance and payment bonds is reimbursable in conformance with the General Contract for Construction, Document 00700, Article 11.3.1.
31	Attachment A.4.a.16(iii) QC Program	Contract references that the CM is to provide peer review plan check from at least one professional trained person in the same discipline as the professional who prepared the design documents. Can this form of peer review be provided by CM staff or is it to be a independent consultant? Are the costs to be included in our fee proposal?	All Preconstruction Services should be included in the CM@Risks fee proposals for the Preliminary Plan Phase and the Working Drawings Phase.

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32	Attachment A.4.a.17.B (iii)	Structural and Mechanical peer review is required by a licensed engineer in the State of California for services at 100% SD and 100%DD. Is this cost to be included in Preconstruction Fee Proposal line item?	See answer to 31 above.
33	Attachment A, Exhibit C.11.B	Commercial General Liability is noted as \$5mm but in Attachment H 11.1 General Liability is noted as \$15mm. Please verify? Same disparity exists with Auto Insurance.	The limits of commercial general liability insurance during the preconstruction phase is \$5,000,000 per occurrence, but with the AOC reserving the right to provide the construction phase insurance as allowed for under Article 11.2 of the General Contract for Construction, Document 00700, increases to \$15,000,000 per occurrence during the Construction Phase services and certain required terms and conditions of insurance change as well.
34	Attachment A, Exhibit C.11.B4	Please verify if CM is to include the costs of a separate \$5mm Professional Liability policy. This is not standard in CM @ Risk contracts as the CM contracting firm has no design responsibilities.	The CM may during the Preconstruction Phase provide for its potential professional liability exposure by a separate professional liability insurance policy or by ensuring that there is not a professional liability exclusion endorsement as part of its commercial general liability insurance policy, see Article 11.B.1 and 11.B.4 of the CM Agreement for Preconstruction and Construction Phase Services.

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35	Attachment H , 11.1.2 Insurance	Please confirm if we are to include Builders Risk Insurance and if Earthquake coverage is to be provided. We recommend that this insurance premium be identified as Direct Cost of Work reimbursement due to extended project schedule and when this policy will actually be activated ( est. Q3/2011 )	For the construction of the new Porterville Courthouse, and with the AOC reserving the right to provide the builders risk insurance as allowed for under Article 11.2 of the General Contract for Construction, Document 00700, the cost for builders risk insurance, including coverage for damage resulting from earthquake, should be included in Construction Phase Services in attachment F.
36	Attachment H. 11.2.1 AOC Insurance	This paragraph suggests that the AOC will procure an Owner Controlled Insurance Program ( OCIP) Please verify if this is correct and will name the CM @ Risk as insured policy?	Should the AOC exercise its right to provide the contraction phase insurance as allowed under Article 11.2 of the General Contract for Construction, Document 00700, the CM and subcontractors of every tier would be insured under the OCIP insurance policies.
37	In the RFQ submittal requirements, Tab 4	Submittal requirements state a maximum 10 projects over \$50mm in the last 5 years. Please verify if this requirement will be extended to the last 10 years.	The requirement remains as stated.
38	RFQ submittal, Section 8.0 DVBE	Please verify that the 3% goal for DVBE participation is for <u>construction phase only</u> and the compliance/ participation forms are not a requirement of the proposal submission.	As stated in Section 8.0, Disabled Veteran Participation Goals: "The AOC will require that the <b>selected</b> Contractor demonstrate DVBE compliance and complete a DVBE Compliance Form <u>when bidding the Project for Construction.</u> "

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39	Attachment C – Misc Project Costs	Under Miscellaneous Project Costs, the CM is to provide fees for utility services. Please verify if these fees are just associated with temporary connections for job site office requirements <b>or</b> does AOC expect the CM to estimate <b>ALL</b> utility connection fees? This would be extremely difficult to guarantee utility agency fees absent Civil plans, points of connection, utility service sizes and capacity. Should this be moved to Direct Cost of the Work?	As indicated in Attachment C, these fees are the responsibility of the CM@Risk.  They aren't to be included in the Direct Cost of the Work.
40	Exhibit A of Attachment A – Contract Schedule	Please confirm if these scheduled dates shown are still valid for pricing the preconstruction services phase of the project.	The dates are current.
41	Tab 4, Page 7 of 22	We would request that 330 Part I (F) : Example Projects allow relevant projects completed within the last 10 years in lieu of the last 5 years.	The requirement remains as stated.
42	Exhibit A of Attachment A – Section 4.C.1 (viii)	Section indicates Work must be completed on or before 760 calendar days from the date of Notice to Proceed with Construction. RFQ/P section 3.0 – Project Description and the Fee Proposal Form indicated this duration as 580 calendar days. Please clarify.	Please change all references to 580 calendar days.
43	Exhibit B of Attachment A – Section 1.D.1	Please clarify if liquidated damages apply upon contractors failure to achieve Substantial Completion of the work or Final Completion.	Substantial Completion
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