**ATTACHMENT 1**

**ADMINISTRATIVE RULES GOVERNING REQUESTS FOR PROPOSALS**

## A. GENERAL

1. This solicitation document, the evaluation of proposals, and the award of any Master Agreement shall conform with current competitive bidding procedures as they relate to the Judicial Branch procurement of goods and services. A vendor responding with a proposal (“Proposer”) must follow the instructions in this Attachment 1 and the solicitation document. Proposer’s proposal is an irrevocable offer for one-hundred eighty (180) days following the deadline for its submission.

1. In addition to explaining the Judicial Council’s requirements, the solicitation document includes instructions which prescribe the format and content of proposals.

## B. PHASED APPROACH

1. This solicitation process will follow a phased approach designed to increase the likelihood that proposals will be received without disqualifying defects. The additional steps will (1) ensure that Proposers clearly understand the requirements of the RFP before submitting a final proposal; (2) ensure that the evaluation team clearly understands what each Proposer intends to offer before proposals are finalized; and (3) provide the evaluation team and Proposer the opportunity to discuss weaknesses or potentially unacceptable elements of a proposal and provide the Proposer the opportunity to modify its proposal to correct such problems.

2. At the time proposals are opened, each proposal will be evaluated for the presence or absence of the required proposal contents. The initial proposals will be reviewed to determine which are responsive to all the requirements. The evaluation team will receive and review the initial proposal to determine if the proposal (or portion thereof):

* Is non-responsive to a requirement;
* Is otherwise defective; or
* Requires clarification so that the Judicial Council may fully understand the proposed solution.

3. The Judicial Council makes no warranty that all errors, defects, or other problems will be identified. **The Proposer is solely responsible for submitting a proposal that is free of errors and defects, and complies with all requirements**.

4. Based on its review of the proposal(s), the evaluation team will prepare an agenda of items to be discussed separately with each Proposer and transmit the agenda to the Proposer. The agenda will include the identification of discovered defects, but may also include, but is not limited to, a discussion of the Proposer’s solution, methodology, proposed support, implementation plans, validation plans, and proposed contracts, as appropriate. The evaluation team will arrange with each Proposer to discuss the items on the agenda. These discussions are confidential.

5. The primary purpose of the discussion is to ensure that the Proposer’s final proposal will be responsive. The evaluation team may identify concerns, ask for clarification, and express its reservations if, in the opinion of the evaluation team, a particular requirement of the RFP is not appropriately satisfied.

6. At the conclusion of the discussions, the evaluation team will document the clarified items and how the Proposer will correct the noted items. The evaluation team may schedule additional discussions with a Proposer at its discretion. If additional discussions are scheduled, the process set forth above (“Confidential Discussions with Proposer”) will be repeated. The evaluation team may require the resubmission of selected materials as part of this process.

7. The Judicial Council may amend the RFP if, as a result of the Confidential Discussions with Proposer, it believes that the program would be more successful if changes are made to the requirements or RFP. If so, the Judicial Council will restructure/amend the solicitation at that time. If this is the case, another round of initial proposals may be requested.

8. If, after discussion with a Proposer, the evaluation team is of the opinion that the proposal cannot be revised and resubmitted in a reasonable time to satisfy the requirements of the solicitation document, and that further discussion would not likely result in an acceptable proposal in a reasonable time, the evaluation team will give the Proposer written notice that the proposal has been rejected and that a final proposal submitted along such lines would be non-responsive.

9. In the next phase of the evaluation, the Proposers will submit final proposals. After final proposals are submitted, the evaluation team will review, evaluate, and score the final proposals using the process described in section J (Evaluation Process).

## C. COMMUNICATIONS WITH THE JUDICIAL COUNCIL AND SUPERIOR COURTS REGARDING THE RFP

1. Except as specifically addressed elsewhere in this RFP, including directions pertaining to the submittal of proposals, Proposers shall contact the Solicitations Mailbox as identified on the cover memo of this RFP, for any communications regarding the RFP and award. Any Master Agreements awarded under this RFP will be executed only by authorized Judicial Council staff. Proposers must include the RFP Number in the subject line of any communication. Judicial Council staff is administrating this RFP on behalf of the Superior Courts of California.

2. Proposers are specifically directed NOT to contact the Judicial Council, Judicial Council staff, any of the superior courts participating in this RFP, or their personnel or consultants for meetings, conferences, or discussions that are specifically related to this RFP at any time prior to any award and execution of a contract. Unauthorized contact with the Judicial Council, Judicial Council staff, any superior court participating in this RFP, or their personnel or consultants may be cause for rejection of the Proposer’s proposal.

## D. QUESTIONS REGARDING THE RFP

1. If a Proposer’s question relates to a proprietary aspect of its proposal and the question would expose proprietary information if disclosed to competitors, the Proposer may submit the question via email to the Solicitations Mailbox, identified on the cover memo of this RFP, conspicuously marking it as "CONFIDENTIAL." With the question, the Proposer must submit a statement explaining why the question is sensitive. If Judicial Council staff 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 Judicial Council staff does not concur regarding the proprietary nature of the question, the question will not be answered in this manner and the Proposer will be notified.

2. Proposers interested in responding to the solicitation may submit questions via email to the Solicitations Mailbox, identified on the cover memo of this RFP, on procedural matters related to the RFP or requests for clarification or modification of this solicitation no later than the due date and time, as set forth on the RFP cover memo. If the Proposer is requesting a change, the request must set forth the recommended change and the Proposer’s reasons for proposing the change. Questions or requests submitted after the deadline for questions will not be answered. Without disclosing the source of the question or request, a copy of the questions and responses will be made available on the Judicial Council bid website at <http://www.courts.ca.gov/rfps.htm>.

## E. ERRORS IN THE RFP

1. If, before the proposal due date and time listed in the timeline of the RFP, a Proposer discovers any ambiguity, conflict, discrepancy, omission, or error in the RFP, the Proposer must immediately notify Judicial Council staff via email to the Solicitations Mailbox and request modification or clarification of the RFP. Without disclosing the source of the request, Judicial Council staff may modify the RFP before the proposal due date and time by releasing an addendum to the solicitation.

2. If a Proposer fails to notify Judicial Council staff of an error in the RFP known to Proposer, or an error that reasonably should have been known to Proposer, before the proposal due date and time listed in the timeline of the RFP, Proposer shall propose at its own risk. Furthermore, if Proposer is awarded a Master Agreement, Proposer shall not be entitled to additional compensation or time by reason of the error or its later correction.

## F. ADDENDA

1. Judicial Council staff may modify the RFP before the final proposal due date and time listed in the timeline of the RFP by issuing an addendum. All addenda will be posted on the Judicial Council’s bid website at <http://www.courts.ca.gov/rfps.htm>. It is each Proposer’s responsibility to inform itself of any addendum prior to its submission of a proposal.

2. If any Proposer determines that an addendum unnecessarily restricts its ability to propose, the Proposer shall immediately notify Judicial Council staff via email to the Solicitations Mailbox listed on the cover memo of this RFP no later than one day following issuance of the addendum.

## G. WITHDRAWAL AND RESUBMISSION/MODIFICATION OF PROPOSALS

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

## H. ERRORS IN THE PROPOSAL

If errors are found in a proposal, Judicial Council staff may reject the proposal; however, Judicial Council staff may, at its sole option, correct arithmetic or transposition errors or both on the basis that the lowest level of detail will prevail in any discrepancy. If these corrections result in significant changes in the amount of money to be paid to the Proposer (if selected for contract award), the Proposer will be informed of the errors and corrections thereof and will be given the option to abide by the corrected amount or withdraw the proposal.

## I. RIGHT TO REJECT PROPOSALS

1. Judicial Council staff may reject any or all proposals and may or may not waive an immaterial deviation or defect in a proposal. Waiver of an immaterial deviation or defect shall in no way modify the solicitation document or excuse a Proposer from full compliance with solicitation document specifications. Judicial Council staff 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 Proposers if it is deemed in the best interest of the Judicial Council and the Superior Courts. Moreover, Judicial Council staff reserves the right to make no selection if proposals are deemed to be outside the fiscal constraint or against the best interest of the courts in the State of California.

2. In addition to the right to reject any and all proposals, in whole or in part, Judicial Council staff also reserves the right to issue similar RFPs in the future. This RFP is in no way an agreement, obligation, or contract and in no way is the Judicial Council or the State of California responsible for the cost of preparing the proposal. The original and one copy of a submitted proposal will be retained for official files and becomes a public record.

## J. 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 proposal to be rejected.

3. Proposals that contain false or misleading statements may be rejected if, in the opinion of the Judicial Council’s staff, the information was intended to mislead the Judicial Council staff or the Superior Courts regarding a requirement of the solicitation document.

4. During the evaluation process, Judicial Council staff may require a Proposer’s representative to answer questions with regard to the submitted proposal. Failure of a Proposer to demonstrate that the claims made in its proposal are in fact true may be sufficient cause for deeming a proposal non-responsive.

## K. PROTEST PROCEDURE

1. General

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

1. 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 due date and time for submittal of proposals, as set forth in the RFP timeline. The protestor shall have exhausted all administrative remedies discussed in this *Attachment 1* prior to submitting the protest. Failure to do so may be grounds for denying the protest.

In no event will Judicial Council staff consider a protest if all proposals have been rejected or the solicitation was cancelled for any reason.

3. After Notice of Intent to Award/Not to Award.

A Proposer submitting a proposal may protest the Judicial Council’s intent to award based upon allegations of improprieties occurring during the proposal evaluation or selection period if it meets all of the following conditions:

a. The Proposer has submitted a proposal that it believes to be responsive to the solicitation document;

b. The Proposer 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 Proposer believes that another Proposer submitting a proposal for an award was incorrectly selected.

Protests must be received no later than five (5) business days after the Notice of Intent has been posted on the Judicial Council’s website.

In no event will Judicial Council staff consider a protest if all proposals have been rejected or the solicitation was cancelled for any reason.

4. Form of Protest

A Proposer who is qualified to protest should submit the protest to the individual addressed under Submission of Proposals, as set forth in the RFP cover memo, 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 on the RFP cover memo under Submission of Proposals. If the protest is hand-delivered, a receipt must be requested.

b. The protest shall include the name, Proposer, physical and electronic addresses, and telephone and facsimile numbers of the party protesting or their representative.

c. The title and number of the solicitation document under which the protest is submitted shall be identified.

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.

Judicial Council staff, 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, Judicial Council staff will not consider such new grounds or new evidence.

5. Determination of Protest Submitted Prior to Submission of a 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, Judicial Council staff will provide a written determination to the protestor prior to the date and time for submittal of proposals, as set forth on the RFP cover memo. If required, Judicial Council staff may extend such proposal due date and time 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 Judicial Council staff, 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 a Proposal

Upon receipt of a timely and proper protest, Judicial Council staff will investigate the protest and will provide a written response to the Proposer within a reasonable time. If Judicial Council staff requires additional time to review the protest and is not able to provide a response within ten (10) business days, Judicial Council staff will notify the protester. If the protesting party elects to appeal the decision, the protesting party will follow the appeals process outlined below. Judicial Council staff, 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.

1. Appeals Process

The Contracting Officer’s decision shall be considered the final action by Judicial Council staff unless the protesting party thereafter seeks an appeal of the decision by filing a request for appeal with the Judicial Council’s Principal Manager of Procurement, at the same address set forth under Submission of Proposal on the RFP cover memo, 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. 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. Decision of the Contracting Officer was in error of law or regulation.

The protester’s request for appeal shall include:

a. Name, protester, physical and electronic addresses, and telephone and facsimile numbers of the proposer filing the appeal or their representative;

b. Copy of the Contracting Officer’s decision;

c. Legal and factual basis for the appeal; and

d. 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 Judicial Council’s Principal Manager of Procurement will send the appeal to the Judicial Council’s legal counsel to review the request and the Contracting Officer’s decision. The Judicial Council’s Principal Manager of Procurement shall issue a final determination. The decision of the Judicial Council’s Principal Manager of Procurement shall constitute the final action of the Judicial Council.

8. Protest Remedies

If the protest is upheld, the Judicial Council 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 Judicial Council and the Superior Courts, the urgency of the procurement, and the impact of the recommendation(s) on the Judicial Council and the Superior Courts. The Judicial Council may recommend any 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. DISPOSITION OF MATERIALS

All materials submitted in response to this solicitation document will become the property of the State of California. One copy of a submitted proposal will be retained for official files and become a public record. Any material that a Proposer considers as confidential but does not meet the disclosure exemption requirements of the California Rule of Court 10.500 should not be included in the Proposer’s proposal as it may be made available to the public.

## M. COST OF PROPOSAL

The Proposer is solely responsible for all costs associated with preparing, presenting and submitting of the response to this RFP.

## N. AWARD AND EXECUTION OF AGREEMENT

1. Award of a Master Agreement or Master Agreements, if made, will be in accordance with the solicitation document to a responsible Proposer submitting proposals compliant with all the requirements of the solicitation document and any addenda thereto, except for such immaterial defects as may be waived by Judicial Council staff.

2. Judicial Council staff 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.

3. Judicial Council staff will make a reasonable effort to execute any Master Agreement based on this solicitation document within sixty (60) days of selecting a proposal that best meets its requirements. However, exceptions taken by a Proposer may delay execution of a contract.

4. A Proposer submitting a proposal must be prepared to use the Judicial Council’s standard contract form rather than its own contract form.

5. Upon award of a Master Agreement, the Master Agreement shall be signed by the Proposer(s) in two original contract counterparts and returned, along with the required attachments, to Judicial Council staff no later than ten (10) calendar days of receipt of the Master Agreement from or prior to the end of June 2017 if the award is at fiscal year-end. The period for execution may be changed by mutual agreement of the parties. Master Agreements are not effective until executed by both parties and approved by the appropriate Judicial Council official(s). Any work performed prior to receipt of a fully executed agreement shall be at Proposer(s)’ own risk.

## O. FAILURE TO EXECUTE THE MASTER AGREEMENT

Failure to execute a Master Agreement within the time frame identified above shall be sufficient cause for voiding the award. Failure to comply with other requirements within the set time shall constitute failure to execute the agreement. If the successful Proposer(s) refuse or fail to execute the Master Agreement, Judicial Council staff may award the agreement to the next qualified Proposer(s).

## P. DECISION

Questions regarding 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 Solicitations Mailbox as set forth on the RFP cover memo.

## Q. NEWS RELEASES

News releases pertaining to the award and execution of a Master Agreement may not be made without prior written approval of Judicial Council staff.

## R. ANTI-TRUST CLAIMS

1. In submitting a proposal, the Proposer offers and agrees that if the proposal is accepted, Proposer will assign to the Judicial Council all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the Proposer for sale to the Judicial Council or Superior Courts pursuant to the proposal. Such assignment shall be made and become effective at the time the Judicial Council or a Superior Court tenders final payment to the Proposer. (See Government Code section 4552.)

2. If the Judicial Council receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this section, the Proposer shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the Judicial Council any portion of the recovery, including treble damages, attributable to overcharges that were paid.

3. Upon demand in writing by the Proposer, the Judicial Council shall, within one year from such demand, reassign the cause of action assigned under this section if the Proposer has been or may have been injured by the violation of law for which the cause of action arose and (a) the Judicial Council has not been injured thereby, or (b) the Judicial Council declines to file a court action for the cause of action. (See Government Code section 4554.)

## S. AMERICANS WITH DISABILITIES ACT

The Judicial Council complies with the Americans with Disabilities Act (ADA) and similar California statutes. Requests for accommodation of disabilities by Proposers should be directed to Solicitations Mailbox set forth on the RFP cover memo.

## T. FEASIBILITY STUDIES AND ACQUISITION RECOMMENDATIONS

Proposals in response to procurements for assistance in the preparation of feasibility studies or the development of recommendations for the acquisition of IT goods and services must disclose any financial interests (e.g., service contracts, original equipment manufacturer (OEM) agreements, remarketing agreements) that may foreseeably allow the Proposer to benefit materially from the Judicial Council’s adoption of a course of action recommended in the feasibility study or of the acquisition recommendations.

END OF ATTACHMENT 1