

# Request for Qualifications

## Qualification of Mechanical

## Contractors for Facilities

## Modification Projects

## ID/IQ Construction Services

The Judicial Council of California, Facilities Services Office seeks to identify a number of contractors qualified to provide construction services for various projects to be initiated between April 2020, and March 2023 with possible extensions to March 2025.

**RFQ number: FSO-2020-01-JP**

PROPOSALS DUE:

**March 13, 2020**

**NO LATER THAN 3:00 P.M. PACIFIC TIME**



JUDICIAL COUNCIL  
OF CALIFORNIA

OPERATIONS AND PROGRAMS DIVISION  
FACILITIES SERVICES

**Date:** January 24, 2020

**To:**  
Interested Mechanical Contractors for Facilities  
Modification Projects

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

**Subject:**  
RFQ-FSO-2020-01-JP

**Send SOQs and Proposals To:**  
Judicial Council of California  
Attn: Ms. Sheryl Berry  
Branch Accounting and Procurement  
455 Golden Gate Avenue, 6<sup>th</sup> Floor  
San Francisco, CA 94102  
*(Indicate RFQ number and name on lower left  
corner of envelopes)*

**Contact:**  
[CapitalProgramSolicitations@jud.ca.gov](mailto:CapitalProgramSolicitations@jud.ca.gov)

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## **1.0 INTRODUCTION**

This Request for Qualifications (RFQ) is the means for prospective construction contractors with experience in performing construction services related to mechanical construction to submit their qualifications to the Judicial Council of California (“**Judicial Council**”) for the services described in this document. The RFQ and all associated documents and addenda are available in electronic form at <http://www.courts.ca.gov>.

- 1.1 The judicial branch of California is a part of California government; independent from the executive and legislative branches. The judicial branch includes the Superior Courts and Appellate Courts of California, as well as the Supreme Court of California. A part of the judicial branch is the Judicial Council, chaired by the Chief Justice of California. The Judicial Council is the primary policy making body of the California judicial system. The Facilities Services office is the division of the Judicial Council responsible for the planning, design, construction, real estate and asset management of facilities for the court system of California.
- 1.2 Pursuant to the Trial Court Facilities Act of 2002 (SB 1732), ownership of and responsibility for most superior court facilities in California has shifted from the counties to the state. Many of the existing facilities require repairs or modifications. Each year, over the next 5 years, approximately 15 to 50 projects are anticipated, with a construction value of approximately \$25,000 to \$3,000,000 per project pursuant to the services requested by this RFQ.

## **2.0 PURPOSE OF THIS RFQ**

The Judicial Council seeks the services of qualified general contractors with experience in performing construction services related to mechanical construction (“**Contractor(s)**”) with expertise in all phases of construction as required to perform a variety of facility modification projects and other construction projects in court facilities, usually in the \$25,000 to \$3,000,000 range. The Contractors will be evaluated and selected to provide services in one or more of the three regions: Bay Area/North Coastal, Northern/Central, and Southern regions. A map of the three regions is included in this RFQ as **Attachment B**. Contractors should indicate, in their cover letter, the region(s) for which they wish to be considered.

- 2.1 Zone 1 – BANCRO – Bay Area/Northern Coastal Regional Area
- 2.2 Zone 2 – NCRO – Northern/Central Regional Area
- 2.3 Zone 3 – Southern Regional Area

Contractor(s) that are selected will enter into an Indefinite Delivery/Indefinite Quantity (“**ID/IQ**”) Contract (“**Contract**”) with the Judicial Council for construction services for facility modifications projects. The Judicial Council anticipates Contracts will be issued to multiple Contractors under this RFQ.

Contractors may be awarded various projects (“**Projects**”) as may arise, based on the location and nature of the services required and the qualifications and resources of the Contractors and often in competition with other Contractors who have also entered into ID/IQ contracts. The contracts are known as ID/IQ contracts because the scope and number of projects and tasks are unknown at the time of contract execution. Approximately 15 to 50 facility modification Projects are anticipated per year. The term of these ID/IQ contracts in support of the Projects will be an initial three (3) year term, with one (1) option to extend for two (2) years. If a specific Project has been awarded that extends beyond the Contract term, the Contract will continue until the Project has been completed, regardless of Project duration.

### **3.0 SCOPE OF SERVICES**

The scope of services required by this RFQ includes some or all of the following services:

3.1 Services: Contractor is to provide general construction services related to mechanical construction on various court facility projects in California on an as-needed basis. These Projects involve renovation projects, program-wide projects, and infrastructure projects. Work will include a variety of construction related activities including new construction, modifications, renovation, and repairs at numerous court facility locations throughout California including but is not limited to: general and specialized construction activities for mechanical, or other incidental related work as directed by Judicial Council's project manager. It is anticipated that some Projects may require some limited design and/or preparation of construction documents necessary for a turn-key operation based on job walks conducted by the Judicial Council project manager and for the purposes of obtaining permits. It is intended that the Contractor will deliver a total and complete construction project as requested. Contractor agrees to provide all necessary expertise and services to professionally and diligently prosecute the work authorized by Project specific Service Work Order(s) ("SWO") to be issued by the Judicial Council. A Statement of Work will be provided with each Service Work Order; the contract terms and conditions, and the specifications, drawings, and special conditions will be provided with the Service Work Order, when applicable.

3.2 Work to be Performed: The Judicial Council intends to award Projects in a timely manner to Contractors that have been awarded a Contract under this RFQ in accordance with the following selection process:

- (i) Work to be Performed less than or equal to \$75,000.00:

If the estimated value of a proposed Project is equal to or less than \$75,000.00, then the Judicial Council may issue a Service Work Order, without soliciting proposals from other Contractor(s) that have been awarded a Contract under this RFQ. The Judicial Council's Project Manager will evaluate and review the Contractor's Proposal to confirm that the price of the Work is fair and reasonable, and otherwise meets the Judicial Council's requirements. Once the Judicial Council's Project Manager has selected a Contractor, and the Contractor has executed the Service Work Order, a Notice to Proceed will be issued to that Contractor.

- (ii) Work to be Performed greater than \$75,000.00:

If the estimated value of a proposed Project is greater than \$75,000.00, then the Judicial Council intends to solicit bids from at least three (3) Contractors that have been awarded a Contract under this RFQ unless there is an emergency or some other incident which justifies a sole sourcing of those services. Contractors will be provided with a basic description of the Project, and there may be a site walk through as well. Depending on the Project, Contractors may be provided with appropriate drawings, specifications, security clearance requirements, permitting information, and other relevant information relating to the Project. The Judicial Council's Project Manager will then award the Project to the Contractor with the lowest responsive bid for a Project. Once a Contractor has been selected, the Judicial Council's Project Manager will then, under the existing Contract, issue a Service Work Order with that Contractor for that given Project. Once the Service Work Order has been executed, a Notice to Proceed will be issued to the Contractor.

In the event that one Contractor is the lowest responsive bidder for one or more Projects, the Judicial Council reserves the right, in its sole discretion, to limit the award to that Contractor for only one Project and the remaining Projects could then be awarded to the next lowest bid Contractor. There is no guarantee that a given Contractor will be awarded a given Project or any future Projects.

- (iii) The Judicial Council does not guarantee that a Contractor will either have the opportunity to submit a bid for a Project, or receive any Service Work Order(s).
- (iv) In selecting the Contractors pursuant to the above process, Judicial Council reserves the right to consider whether the Contractor or its Subcontractors are a DVBE, but in no event shall the Judicial Council be required to consider whether the Contractor or its Subcontractors are a DVBE.
- (v) Notwithstanding anything to the contrary, the Judicial Council reserves the right, in its sole discretion, to deviate from the selection process set forth herein, for any reason, including without limitation, for reasons of time constraints, emergencies or expertise of potential contractors.

### 3.3 License Requirements:

Interested Contractor(s) must hold and maintain a valid **a C-20 (specialty license classification) Contractor license** from the State of California. All Contractor and sub-contractor license(s) must remain active and in good standing throughout the term of the Contract. The Contractor shall notify the Judicial Council in writing in the event its license expires, is suspended or has a change in signatory.

### 3.4 Work Hours:

Project work will typically take place in an occupied court facility; therefore, work hours may be restricted depending upon the Project. The individual Service Work Order will include any restrictions on hours of work. If the Service Work Order does not include a restriction on hours of work, then the work must take place during business hours.

### 3.5 Prevailing Wage:

3.5.1 Payment of Prevailing Wage. The selected Contractor and all subcontractors must pay all workers on the Project not less than the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work as determined by the Director of the Department of Industrial Relations, State of California, for the type of work performed and the locality in which the work is to be performed, pursuant to sections 1770 et seq. of the California Labor Code.

3.5.2 Prevailing Wage Rates. Copies of the general prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Project, as determined by Director of the State of California Department of Industrial Relations, are on file at the Judicial Council's principal office. Prevailing wage rates are also available from the Judicial Council or on the internet at (<http://www.dir.ca.gov/oprl/DPreWageDetermination.htm>). If it becomes necessary to employ a craft, classification or type of worker other

than those listed on the internet at <http://www.dir.ca.gov/oprl/DPreWageDetermination.htm>, the Contractor shall contact the Division of Labor Statistics and Research to find the appropriate prevailing wage determination. If the Division of Labor Statistics and Research is unable to identify a determination that is applicable, the Contractor shall notify the Judicial Council immediately, and the Judicial Council will request a special determination from the Division of Labor Statistics and Research. The rate thus determined shall be applicable from the commencement of the Project.

- 3.5.3 Contractor Registration. The selected Contractor shall comply with the registration and compliance monitoring provisions of Labor Code section 1771.4, including furnishing, its certified payroll records to the Labor Commissioner of California and complying with any applicable enforcement by the Department of Industrial Relations. Labor Code section 1771.1(a) states the following:

“A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to section 1725.5 at the time the contract is awarded.”

- 3.5.4 Subcontractor Registration. The selected Contractor shall, and shall ensure that all “subcontractors” (as defined by Labor Code section 1722.1), comply with Labor Code section 1725.5, including without limitation the registration requirements with the Department of Industrial Relations (“DIR”) that are set forth in Labor Code section 1725.5. The Contractor represents to the Judicial Council that all “subcontractors” (as defined by Labor Code section 1722.1) are registered pursuant to Labor Code section 1725.5. Prior to any subcontractor performing Project work, Contractor shall provide the subcontractor DIR registration number in writing to the Judicial Council, this requirement applies to all levels of subcontractor(s) on the Project regardless of tier.

- 3.5.5 Compliance. Each Contractor acknowledges that, for purposes of Labor Code section 1725.5, this work is a public work to which Labor Code section 1771 applies. Projects under the Contract are subject to compliance monitoring and enforcement by the Department of Industrial Relations. The selected Contractor shall post job site notices, as prescribed by regulation. The selected Contractor shall comply with all requirements of Labor Code section 1771.4, except the requirements that are exempt by the Labor Commissioner for the Project. Contractors must also comply with any applicable apprenticeship requirements under the Labor Code.

### 3.6 Bonds:

The successful Contractor for each Project will be required to furnish a Performance Bond and a Payment Bond both in the amount equal to 100% of the value of the applicable Project.

3.7 Insurance:

The successful Contractor for each Project will be required to provide proof of insurance coverage for Commercial General Liability, Workers Compensation and Employer's Liability, and Automobile Liability pursuant to the insurance provisions set forth in the Contract. Policy limits and insurance requirements are specified in the Contract. Insurance requirements may be increased as determined by the scope of work for a particular Project.

3.8 Backgrounds Checks:

The successful Contractor for each Project will be required to comply with the Judicial Council Background Check Policy as set forth in the Contract.

3.9 Conflict of Interest:

A Contractor, person, firm, or subsidiary who has performed consulting services for a specific Project, may not be considered for, nor be awarded a SWO for construction services for that same Project.

3.10 Designated Subcontractors:

Although the Judicial Council is not bound by the Public Contract Code for trial court construction, the Judicial Council will incorporate the provisions of the Subletting and Subcontracting Fair Practices Act (Public Contract Code section 4100, et seq.) ("**Subcontractor Listing Law**") into the Contract. Accordingly, the Judicial Council will fully enforce the provisions of the Subcontractor Listing Law, including, specifically Public Contract Code sections 4109 and 4110. Contractor must adhere to the rules governing subcontracting as set forth in the Subcontractor Listing Law and all subcontractor substitutions shall be in accordance with provisions of the Subcontractor Listing Law. Violations of the Subcontractor Listing Law provisions by the Contractor may subject the Contractor to penalties and disciplinary action as provided for in the Subcontractor Listing Law.

The Contractor(s) awarded a Contract under this RFQ will be required to list their Subcontractors on the Service Work Order on a Project by Project basis.

**4.0 SCHEDULE OF EVENTS**

In order to be considered, Proposals must be submitted to the Judicial Council in written form, no later than the time and date indicated in the Schedule of Events below. Contractors must ensure compliance with the dates and times set forth in the Schedule of Events and processes set forth in this RFQ.

<b>No.</b>	<b>Events</b>	<b>Dates (Pacific Time)</b>
1	Pre-Proposal Teleconference	Thursday, February 06, 2020 10:00 AM-11:00 AM Pacific Time
2	Deadline for questions and requests for information	Thursday, February 20, 2020
3	Questions and answers posted ( <i>estimate only</i> )	Friday, February 28, 2020
4	<b><u>Submittal Deadline for Submission of Proposals</u></b>	<b>March 13, 2020 at 3:00 P.M. (PST)</b>
5	Posting of Short Listed Contractors ( <i>estimate only</i> )	Week of March 23, 2020
6	Interviews of Short Listed Contractors ( <i>optional</i> )	Week of March 30, 2020
7	<b><u>Notice of Intent to Award (<i>estimate only</i>)</u></b>	<b>April 1, 2020</b>

**5.0 RESPONDING TO THE REQUEST FOR QUALIFICATIONS**

The Judicial Council has developed the Schedule of Events referenced in Section 4 with dates showing the key events in this solicitation process. The RFQ and schedule are subject to change, and the Judicial Council does not send notifications of changes to this RFQ or the schedule to prospective Contractors and is not responsible for failure of any Contractor to receive notification of any change in a timely manner.

Contractors are advised to visit the Judicial Council website (<http://www.courts.ca.gov>) frequently to check for changes and updates to the RFQ, including the Schedule. Prospective Contractors must take the following actions according to the specified timelines in order to participate in this process.

**5.1 Optional: Attend/Participate by Phone in the Pre-Proposal Conference**

The Judicial Council will provide an overview of the Project, introduce key Judicial Council personnel, and answer questions. Although questions will be responded to verbally, the official and binding response will be the written response posted to the Judicial Council website (<http://www.courts.ca.gov>).



Call in information for the pre-proposal conference:

**Date and Time:** Thursday, February 06, 2020 10:00 AM-11:00 AM Pacific Time  
**Call-in Number:** 1-877-820-7831  
**Participant Code:** 678586

Attendance is optional although the Judicial Council will keep a written record of those Contractors that attend the pre-proposal conference. The Judicial Council **will not** reject a Proposal from any Contractor who did not attend the pre-proposal conference.

Contractors may email limited questions to be answered in their Intent to Respond email per Section 5.2 below prior to the date of the pre-proposal conference.

### 5.2 **Optional:** Intent to Respond

Contractors who intend to respond to this RFQ are requested to notify the Judicial Council Facilities Services by sending an email to [capitalprogramsolicitations@jud.ca.gov](mailto:capitalprogramsolicitations@jud.ca.gov) with the RFQ number and name in the subject line prior to the date of the pre-proposal conference. Please include the name, address, telephone, and e-mail address of the Contractor (firm) and contact person.

Questions in the Contractors Intent to Respond email should be limited to the RFQ process and general questions regarding the overall nature of the Projects. Contractors should specifically identify and cite the particular section of the RFQ about which the Contractor has questions.

**The Judicial Council will post answers to specific questions and requests for information submitted by Contractors as indicated in the Schedule of Events.**

### 5.3 Preparing and Submitting Proposals / Statement of Qualifications

Responsive Proposals should provide straightforward, concise information that satisfies the requirements specified. Expensive bindings, color displays, and the like are not necessary. Emphasis should be placed on brevity, conformity to instructions, specified requirements of this RFQ, and clarity of content.

Contractor's Statement of Qualifications (SOQ) should clearly and accurately demonstrate the specialized knowledge and experience required for services under consideration. The SOQ shall be prepared in an 8.5" x 11" format, using a table of contents to divide sections of the Qualification Questionnaire for Contractors. Attachments, except as noted, will not be accepted. In a sealed envelope (clearly marked: "CONTRACTOR Submittal, RFQ Number"), submit your entire Proposal package to the following address:

**Judicial Council of California**  
Attn: Ms. Sheryl Berry, FSO-2020-01-JP  
Branch Accounting and Procurement  
455 Golden Gate Avenue, 6th Floor  
San Francisco, CA 94102

#### Proposal Contents:

- a) One (1) copy in paper form of the SOQ, which consists of a cover letter
- b) A completed Qualification Questionnaire for Contractors

- c) **One (1) USB or flash drive** containing the entire Proposal package, including the completed SOQ. Please ensure electronic files of the Proposal contents are in PDF format and are compatible with PCs.

Please use the following naming convention for electronic files:

*'Abbreviated Name of Company\_FSO-2020-01-JP'*.

- d) One (1) original of the Payee Data Record Form completed in the exact legal name of the Contractor's business signed by an authorized representative of the Contractor (Do not bind Payee Data Record form into the Proposal packet.)

Provide the following with the SOQ:

- 5.3.1 **Cover letter.** The cover letter shall include the name, address, telephone, fax number, e-mail address, and federal tax identification number of the proposing Contractor (one page maximum). The cover letter must be signed by an authorized representative of the prospective Contractor.
- 5.3.2 **Service List Grouped by Zones – Attachment A.** Indicate (yes or no) as to the proposing Contractor's ability to service projects by within that county. An inability to service a county will not impact the score of an applicant.
- 5.3.3 **Qualification Questionnaire for Contractors:**  
Complete Questionnaire form in full, per specific instructions included therein.

Section 1: Part A – General Information  
Part B – Data Required

Section 2: Parts I through V

The prospective Contractor shall describe its specific responses to the selection criteria in Parts I through V. Responses should provide specific information regarding experience, expertise of the key personnel, description of continuous quality improvement process, and capacity to deliver high quality General Contractor construction services for projects located within the county Zones identified on **Attachment A**, and any other relevant selection criteria information not provided elsewhere in the Questionnaire form.

#### 5.4 Delivery Method of Proposals

Statements of Qualifications shall be provided, in written form, no later than the time and date indicated in the Schedule of Events of the most current version of this RFQ. 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 Contractor assumes all risk of loss regarding any delivery method it chooses to use, and the Judicial Council shall not be held responsible for any failure of any delivery service/method. The Contractor is solely responsible for ensuring delivery no later than the date and time specified. The Judicial Council will return any unopened proposal received after the time specified in the most current RFQ schedule.

*Please note that DVBE documentation is not submitted with the Proposal, but is to be submitted only if the Contractor is selected for services (see Section 9.0).*

**6.0 SELECTION PROCESS**

- 6.1 An evaluation panel composed of predominantly Judicial Council Facilities Services staff will review and score the Proposals, based on the selection criteria, and establish a short-list.
- 6.2 Judicial Council will post the short-list on the Judicial Council website; Contractors on the short-list will be notified of their interview time and place. Interviews will be held at the Judicial Council offices in San Francisco and/or Sacramento. Interviews are optional and held at the sole discretion of Judicial Council. In case no Interviews are conducted by Judicial Council, Judicial Council will post the selected firms on the Judicial Council website.
- 6.3 At any time, the Judicial Council may contact previous clients and owners to verify the experience and performance of the prospective Contractor, their key personnel, and their subcontractors.
- 6.4 The Judicial Council reserves the right to disqualify any Contractor based upon a lack of proper license, failure to maintain required registration with the California Department of Industrial Relations, a history of serious violations of law, debarment, or any other factor that would interfere with the Judicial Council’s ability to enter into a contract with the Contractor, regardless of scoring in other categories.
- 6.5 After the interview process, Contractors will be ranked based on the selection criteria and the highest-scoring firms will be contacted regarding contract execution. The selected firms will be posted on the Judicial Council website.

**7.0 EVALUATION OF PROPOSALS**

The Judicial Council will evaluate Proposals using the following criteria:

<b>POINTS</b>	<b>CRITERIA</b>	<b>100 POINTS MAXIMUM</b>
10	<p><b><u>ORGANIZATIONAL PERFORMANCE</u></b></p> <p>Contractor’s performance as an organization, including licensing history, years in business, disputes, and compliance with laws and regulations.</p>	
15	<p><b><u>RELEVANT PROJECTS:</u></b></p> <p>Relevant projects in scope and size including at least one construction project for a public entity in the State of California. Experience on a construction project for a public entity may include work as the general contractor and/or work as a first tier subcontractor.</p>	
10	<p><b><u>REFERENCE EVALUATION</u></b></p> <p>The Judicial Council will contact five (5) references provided by the Contractor to evaluate previous client satisfaction. See the Qualification Questionnaire for Contractors and Reference Checks for additional details.</p>	

20	<p><b><u>PROJECT MANAGEMENT EXPERTISE:</u></b>          Demonstrated expertise and effectiveness of how the Contractor has managed projects, and directed or participated in projects of similar scope and size. Completion of projects in accordance with laws and regulations.</p>
15	<p><b><u>QUALITY CONTROL:</u></b>          Ability of the Contractor to produce quality work and demonstrated effectiveness of a quality assurance program and procedures used by the Contractor on projects of similar scope and size; Ability of the Contractor to handle warranty callbacks and minimize response time for warranty callbacks.</p>
15	<p><b><u>KEY PERSONNEL EXPERTISE:</u></b>          Demonstrated expertise of the key personnel in relation to the scope of potential work; including relative degrees, licenses and certifications.</p>
10	<p><b><u>SAFETY PROGRAM EFFECTIVENESS:</u></b>          Ability of the Contractor to provide effective management oversight of safety services and programs in connection with the performance of Work on projects of similar scope and size.</p>
5	<p><b><u>DVBE REQUIREMENTS:</u></b>          Whether the Contractor is DVBE certified or not.</p>

**8.0 PROPOSED CONTRACT TERMS**

- 8.1 Agreements with successful Contractors will be signed by the parties on the Judicial Council’s Master Contract for Construction Services (“**Contract**”). A sample of the Judicial Council’s Contract is included as **Attachment C** to this RFQ.
- 8.2 The Judicial Council reserves the right to modify or update the terms and conditions of the Contract in the interest of the Judicial Council, in whole or in part at any time up to the negotiation of the Contract with the Contractor. By submitting for this RFQ, the prospective Contractor will; a) provide the services required in the Contract, and b) has no objection to the terms and conditions of the Contract.
- 8.3 If a satisfactory contractual agreement on services and compensation for a specific Project cannot be reached between the Judicial Council and a selected Contractor within 30 calendar days of notification of selection, the Judicial Council reserves the right to terminate negotiations with that Contractor and attempt to reach satisfactory contractual agreement with another qualified Contractor.
- 8.4 The Contractor(s) selected under this RFQ will not be precluded from consideration nor given special status in any future RFQ(s) issued by the Judicial Council.
- 8.5 The Judicial Council cannot guarantee the amount or duration of the work, nor can the Judicial Council guarantee that any Projects will be awarded to the Contractor under the terms of the Contract.
- 8.6 Provision of the Work: Work shall be provided in accordance with Project Service Work Order(s) to be issued by the Judicial Council under the Contract resulting from this procurement, and shall be subject to the provisions of the Contract accompanying this RFQ,

including any additional provisions specified in the Service Work Order(s) with regard to schedule, key personnel, insurance and subcontractors.

- 8.7 Compensation: The method of compensation will vary on a Project by Project basis, and compensation may be based on a Time and Materials, Not to Exceed or Firm Fixed Price basis.

## **9.0 DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION GOALS**

The Judicial Council has an overall program participation goal of a minimum of three percent (3%) for Disabled Veteran Business Enterprises (DVBEs) for the Judicial Council's overall program. If a Contractor under this RFQ represents itself as a DVBE, the Contractor shall demonstrate DVBE compliance and complete a DVBE Compliance Form. Information about DVBE resources can be found on the Executive Branch's website at <http://www.dgs.ca.gov/pd/Programs/OSDS/legislation.aspx> or by calling the Office of Small Business and DVBE Certification at 916-375-4940.

## **10.0 ADMINISTRATIVE RULES GOVERNING REQUESTS FOR QUALIFICATIONS**

### **A. General**

1. This solicitation (the "RFQ") (including, without limitation, any modification made thereto in the course of the solicitation), the evaluation of materials to be submitted in response to this solicitation (the "Proposal(s)"), the award of any contract, and any issues to be raised with regards to this solicitation or to these Administrative Rules Governing Requests for Qualifications/Proposals themselves (the "Administrative Rules") shall be governed by these Administrative Rules. By the act of submission of a Proposal, prospective Contractors agree to be bound by these Administrative Rules. If a prospective Contractor has objections to the Administrative Rules, they must be dealt with in accordance with the provisions of Section B.
2. In addition to explaining the Judicial Council's requirements and needs for goods and/or services, the RFQ includes instructions which prescribe the format, content, and the date and time due of Proposals that are being solicited. Contractors must adhere to all instructions provided in the RFQ when submitting Proposals.

### **B. Errors in the RFQ or Administrative Rules**

1. If a prospective Contractor who desires to submit a Proposal discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFQ; is of the opinion that the structure of the RFQ does not provide a correct or optimal methodology for the solicitation of the goods and/or services sought; believes that one or more of the RFQ's requirements is onerous or unfair; believes that the RFQ unnecessarily precludes less costly or alternative solutions; or has objections to these Administrative Rules, the prospective Contractor must, at least 2 full business days before the due date of the Proposals, provide the Judicial Council with written notice of the same. The written notice shall be accompanied by a written explanation of why the prospective Contractor is of the opinion that the RFQ or the Administrative Rules should be changed, as well as a written description of the modification sought. Said written notice must be in the form of an e-mail submitted to the e-mail address established for the submission of questions in the RFQ. Failure to provide the Judicial Council with such written notice as specified above on or before the time specified

above forfeits the prospective Contractor's right to raise such issues later in the solicitation process.

2. Without disclosing the source of the request, the Judicial Council will evaluate the request and will, prior to the date established for submission of the Proposals, at its sole discretion determine if it chooses to modify the RFQ. If any modification is made, it will be published by the Judicial Council to the Judicial Council's website advertising the solicitation.
3. If a prospective Contractor submitting a Proposal knows of (or if it can be reasonably demonstrated should have known of) an error in the RFQ but fails to notify the Judicial Council of the error as prescribed above, the prospective Contractor is submitting a Proposal at its own risk, and, if awarded the work, shall not be entitled to additional compensation or time for performance by reason of such error later identified, or by reason of its later correction by the Judicial Council.

**C. Questions and Confidentiality**

1. Prospective Contractors are entitled to ask questions about the RFQ and the nature of the goods and/or services being solicited in accordance with the procedure for the submission of such questions specified in the RFQ. Except as otherwise specified below, the Judicial Council's responses to questions submitted shall be published to the public website for the procurement.
2. Any material that a prospective Contractor considers to be confidential but that does not meet the disclosure exemption requirements of the California Public Records Act may in fact be made available to the public as a public record, and prospective Contractors are hereby advised not to include such information in their Proposals.
3. If a prospective Contractor's question or a reasonably expected Judicial Council response would reveal information that the prospective Contractor considers to be proprietary, the prospective Contractor should submit the question in writing, conspicuously marking it as "CONFIDENTIAL". Accompanying the question, the prospective Contractor must submit a written statement explaining how the publishing of said question or the reasonably expected Judicial Council response would damage the prospective Contractor. If the Judicial Council concurs that the disclosure of the question or the Judicial Council's response would expose proprietary information, the question will be answered, but only to that prospective Contractor, and both the question and answer will otherwise be kept in confidence. If the Judicial Council does not concur that such information or its response would reveal information of a proprietary nature, the question will not be answered and the prospective Contractor will be notified.

**D. Addenda**

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

**E. Withdrawal and Resubmission of Proposals**

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

**F. Evaluation Process**

1. In accordance with the provisions of the RFQ, an evaluation will be made of all Proposals rightfully received, to determine if they are complete with regard to the materials required for submission by the RFQ and to determine if they otherwise comply with the requirements established in the RFQ.
2. If a Proposal submitted is incomplete with regards to the materials required for submission or fails to meet any other material requirement of the RFQ, the Proposal will be rejected. A requirement will be judged to be material to the extent that it is not responsive to or is not in substantial accord with requirements of the RFQ. Material deviations cannot be waived.
3. The Judicial Council, at its sole discretion shall have the right to waive immaterial deviations of Proposals with regards to the materials submitted as well as other immaterial deviations from the requirements of the RFQ.
4. The Judicial Council's waiver of an immaterial deviation for one prospective Contractor shall in no way act to excuse that prospective Contractor from material compliance with any other RFQ requirement. The Judicial Council's waiver of an immaterial deviation for one prospective Contractor shall in no way act to excuse other prospective Contractor(s) from material compliance with that same requirement.
5. Proposals that make false or misleading statements or contain false or misleading information may be rejected, if, in the Judicial Council's sole opinion, the Judicial Council concludes that said statements and/or information were intended to mislead the Judicial Council.
6. During the evaluation of the Proposal's, the Judicial Council has the right to require a prospective Contractor's representatives to answer questions with regard to the Proposal submitted. Failure of a prospective Contractor to demonstrate that the claims made in its Proposal are in fact true may be sufficient cause for deeming a Proposal to be materially in non-compliance with the requirements of the RFQ.

**G. Proposals: Rejection, Negotiation, Selection Rights**

1. In accordance with the provisions of the RFQ, the Judicial Council may reject any or all Proposals.
2. The Judicial Council reserves the right to negotiate the content of the Proposal proposed with individual prospective Contractors if it is deemed in the Judicial Council's best interest.
3. The Judicial Council reserves the right to make no selection if Proposals are deemed to be outside the fiscal constraints of, or against the best interest of, the State of California.

**H. Award of Contract**

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

**I. Execution of Contracts**

1. The Judicial Council will make a reasonable effort to execute a contract for the goods and/or services solicited in the RFQ within the time specified in the RFQ, or, if no time has been specified in the RFQ, thirty (30) calendar days following the date of publication of award. Exceptions to the contract documents posted with the RFQ that are raised by a prospective Contractor may delay the execution of contracts. If the negotiation of exceptions raised results in a delay of the planned time of execution past the time period allowed for as specified above (unless otherwise extended in writing by the Judicial Council), the Judicial Council, at its sole discretion, shall have the right disqualify the award made.
2. By submitting a Proposal, a prospective Contractor consents to the use of the form of contract posted with the RFQ rather than its own contract form. Questions about and major exceptions to the contract form should be submitted as questions in accordance with the provisions for the raising and answering of questions as given in the RFQ, and not following notification of an award. The Judicial Council will make reasonable attempts to answer such questions, however, the contract will not be negotiated until after the award is made, and prospective vendors shall not construe the Judicial Council's responses to questions as the Judicial Council's final position on a question raised, nor rely on the Judicial Council's answers as a guarantee of a later successful negotiation of terms.

**J. Protest Procedure**

1. All protests are subject to, and shall follow, the process provided below.



2. Failure of a prospective Contractor to comply with any of the requirements of the protest procedures set forth in this Section J will render a protest inadequate and will result in rejection of the protest by the Judicial Council. Such failure and subsequent rejection shall act to further forfeit the right of the prospective Contractor to continue the protest, and is not appealable under this protest procedure.
3. A protest may only be based upon allegedly restrictive requirement in the RFQ or upon alleged improprieties in regard to the Judicial Council's execution of its responsibilities with regard to receipt and evaluation of the Proposals, or grant of award(s) but only as such responsibilities are specified in the RFQ document.

A. Protests Based On Allegedly Restrictive Requirements:

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

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

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

- i. If a Proposal is rejected because of an alleged failure to provide the Proposal to the Judicial Council on or before the date and time due, and/or to the place required, and/or to otherwise properly provide the Proposal with regard to any other requirement necessary to make a correct submission as specified by the RFQ, the prospective Contractor may file a protest. Said protest must provide verifiable documentation that it has submitted a Proposal in compliance with all the RFQ's directives regarding timeliness, place of delivery and/or other required aspects necessary to make a submission. Such protests must be filed within (5) full Judicial Council business days following the date of dispatch of the notice of rejection.
- ii. If a Proposal is rejected because the Proposal submitted is incomplete with regards to the materials required to make a submission, or fails to meet any other material requirement of the RFQ, the prospective Contractor may file a protest. Said protest must provide a written explanation which alleges to reasonably demonstrate that the Proposal submitted was in fact complete and/or is in fact in compliance with the RFQ requirement(s) in question. Such protests must be filed within (5) full Judicial

Council business days following the date of dispatch of the notice of rejection.

- iii. If a Proposal fails to win an award or qualify the prospective Contractor for a short listing for further evaluation and the prospective Contractor alleges that said failure was due to a failure of the Judicial Council to fairly and impartially execute its responsibilities with regard to evaluation and award of the work as such responsibilities were specified in the RFQ, the prospective Contractor may file a protest. Said protest must provide a written explanation which alleges to reasonably demonstrate in what manner the Judicial Council has failed to fairly and impartially execute said responsibilities. Such protests must be filed within (5) full Judicial Council business days following the date of posting of award notices to the Judicial Council website for the RFQ.

In order to be considered valid, all such protests:

1. Must be submitted by e-mail to the e-mail address established for the submission of questions in the RFQ document. PDF documents may accompany the e-mail as further detailed below.
2. Must include the name, address, telephone and facsimile numbers, and email address of the party protesting or their representative.
3. Must provide the title of the solicitation document under which the protest is submitted.
4. Must provide a detailed description of the specific legal and/or factual grounds for the protest and all supporting documentation and evidence available to the protesting party. PDF files of documents are acceptable, but the Judicial Council reserves the right to require originals if it so deems necessary. If the protestor fails to include documentation or evidence which could have reasonably been provided at the time the protest is made, such failure shall act to restrict the introduction of such evidence at a later date.
5. Must provide a detailed description of the specific ruling or relief requested.
6. Must cite **all** protests that the prospective Contractor intends to make. Failure to raise a protest in the initial protest submittal shall act to disqualify the raising of that protest at a later date.

Any protest failing to meet or provide the appropriate requirements as noted above shall not be considered valid and will be rejected as non-compliant by the Judicial Council and the prospective Contractor shall have no further recourse under this procedure, including any right of appeal.

If the course of investigation of a protest and when the Judicial Council deems necessary, the Judicial Council may request and protestor shall make best efforts to provide further evidence or documentation as requested by the Judicial Council.

The existence of a protest will in no way act to restrict the right of the Judicial Council to proceed with the procurement. The Judicial Council, at its sole discretion, may elect to withhold the contract award(s) until the protest is resolved or denied or may proceed with the award as it deems in the best interests of the State of California.

## **K. Protest Decisions**

The protest will be forwarded to the appropriate Contracting Officer at the Judicial Council, who will assess the protest submission for compliance with the requirements of these Administrative Rules, and, if deemed a valid protest under said rules, shall examine the issues raised and materials provided. Invalid protests shall be returned accompanied with a statement detailing the aspects of the protest submitted that failed to comply with the Administrative Rules.

If the protest submission is deemed valid, the Judicial Council will consider the relevant circumstances surrounding the procurement in its prescription of a fair and reasonable remedy.

The Contracting Officer will endeavor to provide the protesting prospective Contractor with a written judgment within ten (10) Judicial Council business days following the day of receipt of the protest. The judgment shall include a description of any relief or remedy that shall be provided.

If awarding a remedy, the Judicial Council shall, at its sole discretion, choose to employ any or a combination of the following remedies:

- Award the contract consistent with the RFQ
- Extend an additional award to the protesting prospective Contractor
- Terminate the already existing contract that resulted from the RFQ and award the contract to the protesting prospective Contractor
- Terminate the already existing contract that resulted from the RFQ for convenience and re-solicit the RFQ
- Refrain from exercising options to extend the term of the contract that resulted from the RFQ and re-solicit sooner than originally planned
- Other such remedies as the Judicial Council may deem necessary and appropriate.

While the Judicial Council will endeavor to investigate the protest and provide a written response to the prospective Contractor within ten (10) Judicial Council business days, if the Judicial Council requires additional time to review the protest and is not able to provide a response within said period of time, the Judicial Council

will notify the prospective protesting Contractor of the expected time within which it shall provide a response.

#### **L. Appeals Submission**

The Contracting Officer's ruling and any relief specified in the ruling shall be considered the final judgment and adequate relief regarding the protest unless the protesting Contractor thereafter seeks an appeal of the ruling or relief prescribed.

All appeals are subject to, and shall follow, the process provided below.

The protestor may seek an appeal of the ruling and/or relief by filing a request for appeal addressed to the Judicial Council's Senior Manager, Business Services, at the same address noted for the submission of questions in the RFQ. In order to be accepted as valid, any such appeal must be received by the Judicial Council within five (5) Judicial Council business days following the date of issuance of the Judicial Council Contracting Officer's decision.

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

- a. Facts and/or information related to the protest, as previously submitted, that were not reasonably available at the time the protest was originally submitted; or
- b. Allegation(s) that the Contracting Officer's decision regarding the protest contained errors of fact, and that such errors of fact were significant and material factors in the Contracting Officer's decision; or
- c. Allegation(s) that the decision of the Contracting Officer with regards to the protest was in error of law or regulation.

Appeals raising other justifications for appeal shall be rejected as non-compliant and the prospective Contractor shall have no further recourse under this procedure, including any further right of appeal.

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

1. Submitted by e-mail to the e-mail address established for the submission of questions in the RFQ document and addressed to the Judicial Council's Senior Manager, Business Services. PDF documents may accompany the e-mail as further detailed below.
2. Must include the name, address, telephone and facsimile numbers, and email address of the appealing party or their representative.
3. Must provide the title of the solicitation document under which the appeal is submitted.
4. Must provide a detailed description of the specific legal and/or factual grounds for the appeal and all supporting documentation and evidence available to the protesting party. PDF files of documents are acceptable, but the Judicial Council reserves the right to require originals if it so deems necessary. If the appeal fails to include documentation or

evidence which could have reasonably been provided at the time the appeal is made, such failure shall act to restrict the introduction of such evidence at a later date.

5. Must provide a detailed description of the specific ruling or relief requested.
6. Must cite **all** appeals that the protesting prospective Contractor intends to make. Failure to raise an appeal in the initial appeal submittal shall act to disqualify the raising of that appeal at a later date.

#### **M. Appeals Decisions**

The Judicial Council's Facilities Contract Supervisor will assess the appeal submission for compliance with the requirements of these Administrative Rules, and, if deemed a valid appeal under said rules, shall examine the issues raised and materials provided. Invalid appeals shall be returned accompanied with a statement detailing the aspects of the appeal submitted that failed to comply the Administrative Rules.

If the appeal submission is deemed valid, the Judicial Council will consider the relevant circumstances surrounding the procurement in its prescription of fair and reasonable remedy, the Judicial Council Facilities Contract Supervisor will endeavor to provide the appealing prospective Contractor with a written judgment within ten (10) Judicial Council business days following the day of receipt of the appeal. The judgment shall include a description of any relief or remedy that shall be provided.

While the Judicial Council will endeavor to investigate the appeal and provide a written response to the prospective Contractor within ten (10) Judicial Council business days, if the Judicial Council requires additional time to review the appeal and is not able to provide a response within said period of time, the Judicial Council will notify the appealing prospective Contractor of the expected time within which it shall provide a response.

The judgment of the Judicial Council Facilities Contract Supervisor and any relief or remedy specified shall be final and are not subject to further appeal.

#### **N. News Releases**

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

#### **O. Disposition of Proposal Materials Submitted**

All materials submitted in response to the RFQ will become the property of the State of California and will be returned only at the Judicial Council's option and at the expense of the prospective Contractor submitting the Proposal. One copy of a submitted Proposal will be retained for official files and become a public record.

**P. Payment and Withholding**

1. Payment terms will be specified in the contract document that will be executed as a result of an award made under this RFQ, and additional payment terms as may be stated for specific Projects. Prospective Contractors are hereby advised that Judicial Council payments are made by the State of California (“**State**”), and the State does not make any advance payment for services. Payment by the State is normally made based upon completion of tasks as provided for in the agreement between the Judicial Council and the selected Contractor.
  
2. The Judicial Council may withhold ten percent of each invoice until receipt and acceptance of the final good or service procured. The amount of the withhold may depend upon the length of the project and the payment schedule provided in the agreement between the Judicial Council and the awarded Contractor.