



**Judicial Council of California**  
**Administrative Office of the Courts**

Office of the General Counsel  
455 Golden Gate Avenue ♦ San Francisco, CA 94102-3660  
Telephone 415-865-7446 ♦ Fax 415-865-7664 ♦ TDD 415-865-4272

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*Chair of the Judicial Council*

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*Chief Deputy Director*

MICHAEL BERGEISEN  
*General Counsel*

**TO:** ATTORNEYS AND LAW FIRMS

**FROM:** Administrative Office of the Courts  
Office of the General Counsel

**DATE:** January 14, 2003

**SUBJECT/  
PURPOSE OF  
MEMO:** REQUEST FOR PROPOSALS  
Legal Services Regarding Implementation of the Trial Court Facilities Act of 2002  
(Senate Bill 1732)

**ACTION  
REQUIRED:** You are invited to review and respond to the attached Request for Proposals  
("RFP"):  
Project Title: Trial Court Facilities Act of 2002 Implementation Program  
RFP Number: OGC-01-14-03

**DEADLINE:** Although there is no single deadline to respond to this RFP, service providers are  
asked to submit proposals by January 31, 2003. The need for services is present  
and ongoing, and the Administrative Office of the Courts ("AOC") will review  
other proposals as submitted.

**SUBMISSION OF  
PROPOSAL:** Proposals should be sent to:  
**Judicial Council of California**  
**Administrative Office of the Courts**  
**ATTN: Mary Roberts**  
**455 Golden Gate Avenue**  
**San Francisco, CA 94102**

**CONTACT FOR  
FURTHER  
INFORMATION:** **NAME:** Mary Roberts **TEL:** 415-865-7803 **FAX:** 415-865-7664 **EMAIL:** mary.roberts@jud.ca.gov

**Commencement of Performance:** Attorneys and law firms (“legal service providers” or “service providers”) may perform services after the AOC approves the service provider’s proposal, the parties enter into an agreement, and the service provider is assigned to a specific matter.

## 1.0 GENERAL INFORMATION

### 1.1 Background

The Judicial Council of California, chaired by the Chief Justice of California, is the chief policy making agency of the California judicial system. The California Constitution directs the council to improve the administration of justice by surveying judicial business, recommending improvements to the courts, and making recommendations annually to the Governor and the Legislature. The council also adopts rules for court administration, practice, and procedure, and performs other functions prescribed by law. The AOC is the staff agency for the council and assists both the council and its chair in performing their duties.

### 1.2 The Trial Court Facilities Act of 2002

Effective January 1, 2003, the Trial Court Facilities Act of 2002 (Stats. 2002, ch. 1082) (SB1732) is landmark legislation that will shift the governance of California’s more than 450 courthouse facilities from the counties to the State. SB 1732 implements the key recommendation of the statewide Task Force on Court Facilities – that the State assume full responsibility for the ownership and maintenance of court facilities. Specific task force recommendations implemented by SB 1732 include: establishment of a process for the transfer of responsibility for court facilities from counties to the State over a three-year period; establishment of a process for calculating county facility payments to the State for transferred buildings; establishment of a Court Facilities Trust Fund to be used for the acquisition, rehabilitation, or construction of court facilities; creation of a new statewide filing fee surcharge for courthouse construction; and, setting the local penalty assessment for courthouse construction funds at \$5.00. The full text of SB 1732 is available at [www.leginfo.ca.gov](http://www.leginfo.ca.gov). The task force reports are available at [www.courtinfo.ca.gov/reference/specialreports](http://www.courtinfo.ca.gov/reference/specialreports).

### 1.3 SB 1732 Implementation Program

Under SB 1732, the Judicial Council and the AOC have new duties to acquire, manage and operate court facilities for the State of California. This Program supported by this RFP will provide the AOC with competent, qualified legal counsel to assist with the development of real estate transfer strategies and procedures; the development of Memoranda of Understanding (MOU) templates between the trial courts and their counties; the modification and implementation of MOUs for specific transactions; the performance of legal due diligence related to specific transactions, including review of leases, encumbrances and other title documents, and environmental reports; construction contracting and construction management policies and procedures; and related services. Service providers will review and draft contracts and other procurement documents, negotiate the terms of transactions, and provide advice about contract and procurement matters.

The AOC may select, from the responses to this Request for Proposals and from other sources, service providers qualified to provide assistance to the AOC and the trial courts. Service providers may be selected from different geographical areas of the State. The AOC will contract with service providers using a single agreement for a specific project or under a master agreement that sets out the overall scope of the services to be provided, the obligations of the parties, and the general fee agreement. If a master agreement is utilized, each assignment will be reflected in a separate order under the master agreement. Each single agreement or order will include details about the nature of the assignment the service provider will perform for the AOC, the timeline for completion of the assignment, a budget, reporting guidelines, and other information.

The AOC cannot guarantee the amount or duration of work or number of assignments that may be given to a service provider.

## **2.0 PURPOSE OF THIS REQUEST FOR PROPOSALS**

The AOC seeks to identify and retain qualified service providers to assist the AOC's Office of the General Counsel and Office of Capital Planning, Design, and Construction in developing and implementing standardized methodologies for real estate transfers of court facilities from the counties to the State; establishing

procedures and standardized documents for the operations, management, and construction of court facilities; and, assisting trial courts with specific facility-related contract matters on an as-needed basis. The AOC also seeks to identify and retain qualified service providers to serve as bond counsel in connection with a proposed courthouse bond measure. This RFP is a means for prospective service providers to submit their qualifications to the AOC and request selection as a service provider.

### **3.0 SCOPE OF SERVICES**

Services may be provided to the AOC on a nonexclusive and as-needed basis, from the period from execution of the contract to the end of the fiscal year. Agreements may be renewed for additional fiscal years. The services to be provided may include:

- 3.1 Review and draft facilities-related contracts, MOU templates, MOUs, and other procurement documents and provide related legal advice.
- 3.2 Prepare standardized forms and associated procedures for all customary real estate transactions, in conjunction with the AOC's program development for asset management.
- 3.3 Prepare standardized forms and associated procedures for the AOC's program development for capital improvement activities.
- 3.4 Review best practices for facilities management and capital improvement programs developed by the AOC and its consultants.
- 3.5 Review terms and/or participate in negotiations, draft revisions to and review agreements for transfer of responsibility of facilities from counties to the State, including conditions for shared use facilities, historical buildings, lease transfers, and buildings encumbered by debt.
- 3.6 Perform legal due diligence, draft and review documents for transfer of title for real property from counties to the State.
- 3.7 Serve as bond counsel.

#### **4.0 SPECIFICS OF RESPONSIVE PROPOSAL**

The following information must be included in the response:

- 4.1 Name, address, telephone and fax numbers, and social security number or tax identification number.
- 4.2 Five copies of the proposal signed by an authorized representative of the service provider, including name, title, address, and telephone and fax number of one individual who is the provider's designated representative.
- 4.3 Resumes describing the background and experience of primary persons who would provide the legal services.
- 4.4 The proposal should indicate which services the service provider proposes to perform and, if the service provider's proposal has geographic or other limitations on some or all of the services offered, these limitations should be clearly described. Note: the service provider's proposal must indicate whether potential conflicts would arise with specific counties.
- 4.5 Names, addresses, and telephone numbers of clients for whom the service provider has provided similar services. The AOC may check references listed by the service provider.
- 4.6 Responsive proposals should provide straightforward, concise information that satisfies the requirements noted above. Expensive bindings, color displays, and the like are neither necessary nor desired. Emphasis should be placed on skills and experience that respond to the needs of the AOC, the requirements of this RFP, and completeness and clarity of content.

#### **5.0 FEE PROPOSAL**

The proposal must include the service provider's proposed fee schedule. It is expected that all service providers responding to this proposal will offer the service provider's government or comparable favorable rates.

## **6.0 RIGHTS**

The AOC reserves the right to reject any and all proposals, as well as the right to issue similar RFPs in the future and to select and retain service providers from other than respondents to this RFP. This RFP is in no way an agreement, obligation, or contract and in no way is the AOC or the State of California responsible for the cost of preparing the proposal. One copy of a submitted proposal may be retained for official files and becomes a public record.

Only written responses will be accepted. Responses should be sent by registered or certified mail or by hand delivery. Service providers may send the AOC an advance copy by facsimile to Mary Roberts at the fax number listed on page one and in Section 7.0 below. Sending an advance copy by fax, however, does not satisfy the submission requirements of paragraph 4.2.

## **7.0 PROJECT MANAGEMENT**

The Project Manager for this RFP process is:

Mary Roberts, Managing Attorney  
Office of the General Counsel  
Administrative Office of the Courts  
455 Golden Gate Avenue  
San Francisco, CA 94102  
415-865-7803 phone  
415-865-7664 fax  
mary.roberts@jud.ca.gov

## **8.0 EVALUATION OF PROPOSALS**

In evaluating the proposals, the AOC will use the following criteria: the responsiveness of the proposal; the prospective service providers' experience with similar matters; the overall experience and expertise of the prospective service providers; the fee proposals; and responses to reference inquiries.

## **9.0 INTERVIEW**

It may be necessary to interview prospective service providers to clarify aspects of their submittal. If conducted, interviews may be conducted in person or by telephone conference call. The AOC will notify prospective service providers regarding any interview arrangements.

## **10.0 PROPOSED CONTRACT TERMS AND APPLICABLE RULES**

The contract with each selected service provider will include standard terms used in contracts with the State of California, as well as terms specific to the Program. Generally the terms of the contract will include, but will not be limited to: (1) completion of the project within the timeframe provided; (2) no additional work authorized without prior approval; (3) no payment without prior approval; (4) funding availability subject to Legislature; (5) termination of contract under certain conditions; (6) indemnification of the State; (7) approval by the State of any subcontractors; (8) National Labor Relations Board, drug-free workplace, nondiscrimination, and FEHA/ADA requirements; and (9) minimum appropriate insurance requirements. Incorporated in this RFP and attached as Attachment A is a document entitled "Administrative Rules Governing Requests for Proposals."

## **ATTACHMENT A**

### **JUDICIAL COUNCIL OF CALIFORNIA ADMINISTRATIVE OFFICE OF THE COURTS**

#### **ADMINISTRATIVE RULES GOVERNING REQUESTS FOR PROPOSALS**

##### **A. General**

1. This solicitation document, the evaluation of proposals, and the award of any contract shall conform with current competitive bidding procedures as they relate to the procurement of goods and services. A service provider's proposal is an irrevocable offer for 30 days following the deadline for its submission.
2. A nondiscrimination clause will be included in any contract with the trial courts that ensues from this Request for Proposal ("RFP").
3. In addition to explaining the AOC's requirements, the RFP includes instructions, which prescribe the format and content of proposals.

##### **B. Errors in the solicitation document**

1. If a service provider submitting a proposal discovers any ambiguity, conflict, discrepancy, omission, or other error in this solicitation document, the service provider shall immediately provide the AOC with written notice of the problem and request that the solicitation document be clarified or modified. Without disclosing the source of the request, the AOC may modify the solicitation document prior to the date fixed for submission of proposals by issuing an addendum to all service providers to whom the solicitation document was sent.
2. If prior to the date fixed for submission of proposals a service provider submitting a proposal knows of or should have known of an error in the solicitation document, but fails to notify the AOC of the error, the service provider shall respond at its own risk. If the service provider is awarded a contract, it shall not be entitled to additional compensation or time by reason of the error or its later correction.



### **C. Questions regarding the solicitation document**

1. If a service provider's question relates to a proprietary aspect of its proposal and the question would expose proprietary information if disclosed to other service providers, the service provider may submit the question in writing, conspicuously marking it as "CONFIDENTIAL." With the question, the service provider must submit a statement explaining why the question is sensitive. If the AOC concurs that the disclosure of the question or answer would expose proprietary information, the question will be answered, and both the question and answer will be kept in confidence. If the AOC does not concur regarding the proprietary nature of the question, the question will not be answered in this manner and the service provider will be so notified.
2. If a service provider submitting a proposal believes that one or more of the solicitation document's requirements is onerous or unfair, or that it unnecessarily precludes less costly or alternative solutions, the service providers may submit a written request that the solicitation document be changed. The request must set forth the recommended change and service provider's reasons for proposing the change.

### **D. Addenda**

The AOC may modify the solicitation document prior to the date fixed for submission by sending (by fax or otherwise) an addendum to the service providers to whom the solicitation document was sent. If any service provider determines that an addendum unnecessarily restricts its ability to submit a proposal, it must notify Mary Roberts at the Administrative Office of the Courts no later than one day following receipt of the addendum.

### **E. Withdrawal and resubmission/modification of proposals**

A service provider may withdraw its proposal at any time by notifying the AOC in writing of its withdrawal. The service provider must sign the notice. The service provider may thereafter submit a new or modified proposal. Modification offered in any other manner, oral or written, will not be considered.

### **F. Evaluation process**

1. An evaluation team will review in detail all proposals that are received to determine the extent to which they comply with the 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 RFP requirements. Material deviations cannot be waived. Immaterial deviations may cause the AOC to reject a proposal.
3. Proposals that contain false or misleading statements may be rejected if in the AOC's opinion the information was intended to mislead the AOC regarding a requirement of the solicitation document.
4. During the evaluation process, the AOC may require a service provider's representative to answer questions with regard to the service provider's proposal. Failure of a service provider to demonstrate that the claims made in its proposal are in fact true may be sufficient cause for deeming a proposal non-responsive.

## **G. Rejection of proposals**

The AOC may reject any or all proposals and may or may not waive an immaterial deviation or defect in a proposal. The AOC's waiver of an immaterial deviation or defect shall in no way modify the solicitation document or excuse a service provider from full compliance with solicitation document specifications. The AOC reserves the right to accept or reject any or all of the items in the proposal, to award the contract in whole or in part and/or negotiate any or all items with individual respondents if it is deemed in the AOC's best interest. Moreover, the AOC reserves the right to make no selection from among respondents to this solicitation and to select and retain service providers from other than respondents to this solicitation.

## **H. Selection of service provider**

1. Selection of service providers who respond to this solicitation document, if made, will be to a responsible service provider submitting a proposal compliant with all the requirements of the solicitation document and any addenda thereto, except for such immaterial defects as may be waived by the AOC.

2. The AOC reserves the right to determine the suitability of proposed service providers, based upon the AOC's evaluation of the service provider's: (a) ability to meet administrative and technical requirements; (b) ability to provide the quality of service and performance of items proposed; and (c) cost.

## **I. Questions**

Questions regarding this RFP, or any related matter, should be addressed to Mary Roberts, Office of the General Counsel, Judicial Council of California, 455 Golden Gate Avenue, 5th Floor, San Francisco, California, 94102.

## **J. Protest procedure**

1. The Administrative Office of the Courts intends to be completely fair to all service providers in this solicitation process. In applying evaluation criteria and making selection decisions, members of the evaluation team will exercise their best judgment.
2. A service provider submitting a proposal may protest the AOC's decision not to select the service provider if the service provider's protest meets all the following conditions:
  - a. The service provider has submitted a proposal, which it believes to be responsive to the RFP;
  - b. The service provider believes that its proposal meets the AOC's administrative and technical requirements, and that it has supplied sufficient evidence of its proven quality and performance as a service provider;
  - c. The service provider believes that its proposal offers services at a competitive costs to the AOC; and
  - d. The service provider believes that the AOC has unfairly declined to select the provider.
3. A respondent submitting a proposal who is qualified to protest should contact the Contract Officer at the Administrative Office of the Courts at the address given below or call him at 415-865-7989.

Stephen Saddler  
Contract Officer  
Administrative Office of the Courts  
455 Golden Gate Avenue  
San Francisco, CA 94102-3660

4. If the protest is denied, the respondent may appeal the determination. The written appeal must state the facts surrounding the issue and the reasons the respondent believes the award to be invalid. The appeal must be sent by certified or registered mail or delivered personally to:

Grant Walker  
Business Services Manager  
Administrative Office of the Courts  
455 Golden Gate Avenue  
San Francisco, CA 94102-3660

A receipt should be requested for hand-delivered material.

#### **K. News releases**

News releases pertaining to the selection of any service provider may not be made without prior written approval of the Administrative Director of the Courts.

#### **L. Disposition of materials**

All materials submitted in response to this solicitation document will become the property of the AOC and the State of California and will be returned only at the AOC's option and at the expense of the service provider submitting the proposal. One copy of a submitted proposal will be retained for official files and becomes a public record. However, any confidential material submitted by a service provider that was clearly marked as such will be returned upon request.

#### **M. Payment**

1. Payment terms will be specified in any agreement that may ensue as a result of this solicitation document.

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**2. THE STATE DOES NOT MAKE ANY ADVANCE PAYMENT FOR SERVICES.** Payment is normally made based upon completion of tasks as provide in the agreement between the State and the selected service provider.