

**CALENDAR ITEM
C62**

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| A | Statewide | 12/17/14 Bid Log 2014-12 W 30203 |
| S | Statewide | A. Abeleda, D. Brown, C. Huitt |

**REQUEST AUTHORITY FOR THE EXECUTIVE OFFICER TO SOLICIT
STATEMENTS OF INTEREST, NEGOTIATE FAIR AND REASONABLE PRICE,
AWARD AND EXECUTE AGREEMENTS FOR ESTABLISHING “ON-CALL”
CONTRACTS WITH FIRMS TO PREPARE ENVIRONMENTAL DOCUMENTATION**

PARTY:

California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

BACKGROUND:

In preparing projects for consideration by the California State Lands Commission (Commission), Commission staff regularly secures the services of firms that provide a wide range of expertise in environmental planning studies, assessments, permitting, consultation, monitoring, and documents required by the California Environmental Quality Act (CEQA) and the National Environmental Policy Act. These consultants provide the necessary services and expertise to prepare documents and other deliverables required for staff to present proposed projects to the Commission for consideration.

Recently, the Commission promulgated changes to regulations underlying the process of hiring architectural and engineering (A & E) firms in an effort to streamline the selection process and to reduce the burden and cost to those firms to solicit for such projects (Calendar Item 85, June 19, 2014). One change introduced was the ability to hire A & E firms “on call” so that these firms could commence work on certain projects without delay. “Architectural and engineering services” include those professional services of an architectural, landscape architectural, engineering, environmental services, construction project management, or land surveying services as well as incidental services that members of these professions.

PROPOSED ACTIVITY:

Commission staff proposes to solicit environmental firms on an “on-call” basis in the form of retainer contracts, pursuant to recently promulgated regulations found in California Code of Regulations, Title 2, Division 3, Chapter 1, Article 13 (Article 13).

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Under this authorization, Commission staff would (1) issue statewide announcements to solicit qualifications from A & E firms desiring to obtain a retainer contract and (2) award retainer contracts based on the firms' qualifications and professional expertise.

Although any number of firms will be invited to solicit the Commission for a retainer contract, only a finite number of firms shall be awarded, per the procedures in Article 13, an "on call" retainer contract. Once awarded an "on call" retainer contract, firms would be tasked with performing required environmental compliance work on future projects, as needed.

Retainer contracts shall be awarded based on location (statewide or regional) and/or expertise in a particular subject matter. Typical documents produced pursuant to a retainer contract would include Mitigated Negative Declarations (MNDs), Negative Declarations (NDs), Supplemental or Subsequent CEQA documents, and Mitigation Monitoring and Reporting Plans (MMRPs). Other environmental services may address specific subject matters such as:

- specialized environmental studies (such as air quality and greenhouse gases, cultural resources, geotechnical, natural resources, traffic, and water quality);
- land/site acquisition studies;
- environmental due diligence investigations; and
- consultations with Federal State, regional, and local permit agencies.

These documents and deliverables are necessary to ensure the Commission considers environmental impacts of its actions in compliance with statutory requirements. Work pursuant to these contracts will be on an on-call basis dependent on the needs of the Commission, and will be assigned to an on-call firm within the applicable project region or area of expertise unless there is a conflict of interest or contractor staff availability issues. Project costs for services provided are typically reimbursed to the State by the applicant.

Pursuant to section 2980.11 of Article 13, individual retainer contracts shall not exceed four (4) years in duration nor shall any individual contract task exceed \$250,000 in value. The Commission makes no warranty or guarantee as to the volume of work offered under any retainer contract.

Work performed to prepare an Environmental Impact Report (EIR) in its entirety shall not be included in any retainer contract. Contracts to prepare EIRs will continue to require a separate project-specific A & E firm selection process.

Due to time constraints to prepare the environmental documentation (State CEQA Guidelines, § 15108) and the irregular nature of the need for such specialized services, the use of contractors to supplement staff resources is necessary.

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OTHER PERTINENT INFORMATION:

1. The staff recommends that the Commission find that the subject request for authority not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with CEQA.

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

2. Approval of this item by the Commission does not constitute approval of any proposed project or lease; it only authorizes consultant retainer contracts for environmental review.

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code section 6106 (Delegation to execute written instruments)
- B. State Contracts Manual Volume 1, Ch. 11, A & E Contracts (rev. 11/12)
- C. Public Contract Code section 6106
- D. Government Code Section 19130 (b)(10)
- E. Government Code section 4526
- F. California Code of Regulations, Title 2, sections 2980.0 - 2980.12

IT IS RECOMMENDED THAT THE COMMISSION:

1. Find that the subject request for authority is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.
2. Find that the selection of consultants under this process does not affect small businesses as defined in Government Code section 11342.610, because they will be accorded equal opportunity to submit statements of qualifications and performance data.
3. Find that the services are of limited duration and are of such urgent, temporary and occasional nature that the delay in their implementation under civil service would frustrate their very purpose as specified in Government Code section 19130, subdivision (b)(10).
4. Find that the selection of consultants under this process for professional services of architectural, landscape architectural, engineering,

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environmental, land surveying or construction project management services will be consistent with procedures and policies adopted by the Commission as specified in Government Code section 4526 and California Code of Regulations, Title 2, sections 2980.0–2980.12.

5. Authorize the Executive Officer or her designee to solicit proposals, negotiate a fair and reasonable price, award and execute retainer contracts for environmental documentation in accordance with State policies and procedures.