

RFP Title: Enterprise Document Management Services
RFP Number: IT-DMS-2016-01-MDS

**II. RULES GOVERNING
COMPETITION**

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II.1 OVERVIEW

The purpose of competitive procurement is to follow the JBCM, which will insure securing the best solution to the State of California and achieve the goal of meeting the public objectives at the best practical cost and avoid the possibility of any fraud, collusion, etc. Competitive procurement is designed to benefit the State of California, and is not for the benefit of the Bidders. It is conducted to accomplish its purposes with sole reference to the public interest. It is based upon full and free procurement to satisfy the State of California's Judicial Branch Contracting Manual and the Public Contracting Code, the Judicial Council requirements and acceptance by the Judicial Council of the most value-effective solution for the Judicial Council's business requirements, as determined by the evaluation criteria contained in this solicitation.

State of California solicitations must provide a basis for full and open competitive bidding among Bidders on a common standard governed by the JBCM, free of restrictions that stifle competition. Judicial Council solicitations must be specific and provide an environment where all competitors are evaluated on the same objectives.

II.2 PROPOSAL PROCESS

The Proposal Process will follow the dates and times indicated in RFP Section I.4, Timeline For This RFP.

II.2.1 Optional RFP Pre-Proposal Bidder's Conference

An optional RFP Pre-Proposal Bidder's Conference will provide Bidders the opportunity to gain further understanding of the RFP requirements prior to Proposal submission.

The Bidder's Conference agenda will include the following:

- Review of the Technical criteria and answering any technical specification questions
- Provide answers to written Bidder questions previously submitted
- Address new Bidder questions

The RFP Optional Pre-Proposal Bidder's Conference will be held on the date and time shown in RFP Section I.4, Timeline For This RFP, October 5, 2016 from 1-3pm PDT. Any questions regarding the Bidder's Pre-Proposal Conference must be directed to the Judicial Council Solicitations email box at solicitations@jud.ca.gov.

II.2.2 RFP Package Clarification or Additional Information

II.2.2.1 Bidder Questions

Bidder questions regarding this RFP must be documented and sent to the Judicial Council Solicitations email box at solicitations@jud.ca.gov. Answers to initial written inquiries will be reviewed at the RFP Bidder's Pre Conference.. All written questions regarding this RFP are due to in the Solicitations email box (solicitations@jud.ca.gov) by October 4, 2016 by 5pm PDT, the date and time specified in RFP Section I.4, Timeline For This RFP.

Proposers are specifically directed **NOT** to contact any Judicial Council personnel or consultants for meetings, conferences, that are related to the RFP at any time between the release of the RFP and any award and execution of a contract. Unauthorized contact with any Judicial Council personnel or consultants may cause for rejection of the Bidder's submitted proposal.

If a Bidder's question relates to a confidential aspect for this Proposal and the question would expose confidential information if disclosed to competitors, the Bidder may submit the question in writing, conspicuously marking it as "CONFIDENTIAL."

With the question, the Bidder must submit a statement explaining why the question is confidential. If the Judicial Council concurs that the disclosure of the question or answer would expose confidential information, the question will be answered, and both the question and answer will be kept in confidence. Any material that a Bidder considers as confidential, but does not meet the disclosure exemption requirements of the California Public Records Act, should not be included in the Bidder's Proposal, as it may be made available to the public.

If the JCC does not concur regarding the confidential nature of the question, the question will not be answered, and the Bidder will be notified of the decision.

If, prior to the date fixed for submission of Proposals a Bidder submitting a Proposal knows of or should have known of an error in the RFP package but fails to notify the Judicial Council of the error, the Bidder shall propose at its own risk. If the Bidder is awarded a Notice of Intent to Award an Agreement, the Bidder shall not be entitled to additional compensation or time because of the error or its later correction.

II.2.2.2 RFP Addenda

The Judicial Council may modify the RFP document through RFP addenda. The Judicial Council will post RFP addenda to the Judicial Council's Website. It is the Bidder's responsibility to check the Judicial Council Website for RFP addenda or other communications. The Judicial Council recommends Bidders check the Website on a daily basis at a minimum.

If a Proposer determines that an addendum unnecessarily restricts its ability to propose, the Proposer shall immediately notify the Judicial Council via email to the Solicitations Mailbox no later than one day following issuance of the addendum.

II.2.3 Submission of Proposals

II.2.3.1 Submission Requirements

Bidder Proposal to this RFP shall be delivered to the person and by the date and time specified in RFP Section I.4, Timeline For This RFP, November 3, 2016, by 5pm PDT.

An original Bidder Proposal **signed** by a duly authorized officer plus electronic copies (i.e. flash drives), and hard copies are to be submitted to the Judicial Council in the quantities and at the locations and dates shown in RFP Section I.4, Timeline For This RFP, and RFP Section VII, Proposal Format.

Proposals shall be complete, in writing and with no pertinent information omitted. Proposals shall use and be organized according to the formats described in RFP Section VII, Proposal Format.

The Bidder's Proposal in response to this RFP will constitute an offer to develop an Agreement based on the terms stated in this RFP in Appendix H. The Judicial Council requests comprehensive, cost-effective, quality solutions that meet all of the requirements in this document.

The Proposal shall remain valid for a minimum of 120 days from date of receipt of Proposal by the Judicial Council.

The Judicial Council reserves the right to accept or reject the Proposal, in whole or in part, without further consideration for any reason.

II.2.3.2 Ownership of Proposal Documentation

Proposals (and related materials), once submitted, become the property of the Judicial Council, may be used and disclosed for any purpose in the Judicial Council's discretion, and will be returned only at the Judicial Council's option and at the expense of the Bidder submitting the Proposal. One copy of a submitted Proposal will be retained for official files and become public record.

Any material that a Bidder considers as confidential but does not meet the disclosure exemption requirements of California Rule of Court 10.500, which is similar to the California Public Records Act, should not be included in the Bidder's Proposal, as it may be made available to the public.

The Judicial Council's policy is to follow the California Rule of Court 10.500. If a Bidder's Proposal contains material noted or marked as confidential and/or proprietary that, in the Judicial Council's sole opinion, meets the disclosure exemption requirements of Rule 10.500, then that information will not be disclosed pursuant to a written request for public documents. If the Judicial Council does not consider such material to be exempt from disclosure under Rule 10.500, the material will be made available to the public, regardless of the notation or markings. If a Bidder is unsure if its confidential and/or proprietary material meets the disclosure exemption requirements of Rule 10.500, then it should not include such information in its Proposal.

II.2.3.3 Costs Incurred

The Judicial Council will not be responsible for any costs incurred by Bidder in the preparation of its Proposal, due diligence or negotiation of an Agreement whether or not finally awarded. Such Proposal and business development costs shall not be included in the cost basis of services to be provided to the Judicial Council.

II.2.3.4 Withdrawal and resubmission/modification of Proposals

A Bidder may withdraw its Proposal at any time prior to the deadline for submitting Proposals by notifying the Judicial Council in writing of its withdrawal to the Judicial Council Solicitations email box (solicitations@jud.ca.gov). The notice must be signed by the Bidder. The Bidder may thereafter submit a new Proposal, provided that it is received at the Judicial Council no later than the Proposal due date and time listed in RFP Section I.4, Timeline For This 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 RFP Section I.4, Timeline For This RFP.

II.2.4 Bidder Presentations

Upon submission of the Proposal, the Judicial Council will invite Bidders who meet the the Tier 2 scoring qualifications for a presentation of their Proposal to include interviews, demonstrations and proposed methodology approach with respective timeframes. The presentation shall be delivered by the proposed Key Personnel at a minimum including the Program Director, Project Manager(s), Integration Manager, and Technical Lead.

II.3 PROPOSAL EVALUATION AND BIDDER SELECTION

The Proposal evaluation and Bidder selection process will be a three-tiered process that includes the following steps:

- Tier 1 – RFP Initial Administrative Requirements and Minimum Qualifications Review
- Tier 2 – Technical Proposal/Non Cost Evaluation and Scoring
- Tier 3 – Cost Proposal Evaluation and Complete Proposal Scoring

II.3.1 Tier 1 – Initial Administrative Requirements and Minimum Qualifications Review

The Judicial Council shall perform an initial review to determine material compliance to the RFP administrative requirements and the minimum qualification requirements as defined in the RFP. Bidders that are deficient in meeting the minimum qualifications at the time of Proposal submittal may be deemed non-responsive to this RFP and no further consideration shall be granted. The Judicial Council may ask clarification questions prior to deeming a Proposal as non-responsive, but failure to meet minimum qualifications will result in the proposal being rejected.

The Tier 1 – Initial Administrative Requirements and Minimum Qualifications Review includes the following:

- Bid Opening and Content Validation Check (pass/fail)
- Administrative Requirements Review (pass/fail)
- Minimum Qualification Review (pass/fail)
- Non-Functional and Functional Requirements Response Review (pass/fail)
- Statement of Work Review (pass/fail)

For a description of the individual Administrative Requirements and Minimum Qualifications Reviews, see RFP Section VIII, Proposal Evaluation.

II.3.2 Tier 2 – Technical Evaluation/Non-Cost Scoring

Proposals that pass the Tier 1 – Initial Administrative Requirements and Minimum Qualifications Review will be evaluated based on the Tier 2 evaluation criteria described in RFP Section VIII, Proposal Evaluation. Bidders that have their Technical Evaluations scored within the top range, the “Competitive Range” (short list) will advance to Tier 3 evaluations as outlined below. Bidders who do not advance to Tier 3 will be notified in writing.

The Tier 2 – Technical Evaluation and Scoring includes the following:

- Evaluation of Bidder Experience Qualifications

- Evaluation of Project Staff and Project Organization
- Evaluation of Business Solution Response
- Evaluation of exceptions to RFP Appendix H, Master Services Agreement and/or RFP Appendix I, Leveraged Purchase Agreement (including Exhibits)
- Bidder Demos and Clarification Sessions, invites sent only to Competitive Range Proposers

For a description of the specific evaluated components, see RFP Section VIII, Proposal Evaluation.

II.3.3 Tier 3 – Cost Scoring Evaluation

After completion of the Technical Evaluation, the Judicial Council will publish the final Technical Evaluation Score on the DMS RFP Judicial Council's website on November 28, 2016. Only Bidders in the Competitive Range will then be evaluated on their Cost Proposals after each Cost Proposal is opened on November 28, 2016 at 1pm at the Judicial Council offices in San Francisco.

The Tier 3 – Cost Proposal Scoring Evaluation process includes the following:

- Cost Proposal Scoring (including analysis of Cost Workbook)
- Final Evaluation and Bidder Selection

For a description of the detailed Cost Proposal Scoring Evaluation, see RFP Section VIII, Proposal Evaluation.

II.3.4 Final Agreement Negotiations

II.3.4.1 Bidder's Negotiation Team

The Bidder will deploy a senior negotiation team for the Agreement negotiations.

The JCC desires that a Bidder negotiation team be led by its proposed Program Executive, who would be responsible for day-to-day management of the engagement.

The negotiation team must be empowered to make decisions on all parts of the entire Agreement..

The Bidder agrees to honor the spirit of this process by limiting contact to the Judicial Council team members authorized to conduct the process. Any deviation from authorized points of contact will be grounds for proposal rejection.

Continuity in the Bidder negotiation team is to be maintained by the Bidder. Adding new members to the team and/or substituting team members will only cause delays in negotiations and therefore should be avoided.

If it is determined that the Bidder's negotiation team is not empowered to negotiate the Agreement, or if substitutions are made or if additional members are added to the team, the net effect of which is to delay the negotiations, then the Judicial Council reserves the right to cease negotiations and may require the Bidder to reimburse the Judicial Council for expenses incurred in connection with the Bidder's failure to comply with the above procedures.

II.3.4.2 Control of Document

The JCC will retain revision control of the form of Agreement, including all Exhibits and Attachments.

II.3.4.3 In Person Meetings - Location of Meetings

Negotiations will be conducted either at the Judicial Council offices (San Francisco or Sacramento) or via telephone at times convenient for the Judicial Council.

II.3.4.4 News Releases

News releases pertaining to the Notice of Intent to Award may not be made without prior written approval from the Judicial Council's point of contact listed in the Cover Sheet to this RFP.

II.4 PROTEST PROCEDURES

II.4.1 General

Failure of a Bidder to comply with the protest procedures set forth in this section will render a protest inadequate and non-responsive, and will result in rejection of the protest.

II.4.2 Prior to Submission of Protest, RFP Specifications Protest

An interested party that is an actual or prospective Bidder with a direct economic interest in the procurement may file a protest based on allegedly restrictive or defective specifications or other improprieties in the RFP process that are apparent, or should have been reasonably discovered prior to the submission of a Proposal. Such protest must be received by October 15, 2016.

II.4.3 After Notice of Intent to Award Protest Period

A Bidder submitting a Proposal may protest the Notice of Intent to Award only for five business days after the Notice of Intent to Award has been published by the Judicial Council and the Protest must be based on allegations of improprieties occurring during the Proposal evaluation period if it meets all of the following conditions:

- The Bidder has submitted a Proposal that it believes to be responsive to the RFP document.
- The Bidder believes that its Proposal meets the requirements of the RFP, proposes services of proven quality and performance, and offers a competitive cost.
- The Bidder believes that the Judicial Council has incorrectly selected another Bidder submitting a Proposal for an award.

Protests must be received no later than five (5) court days after the posting of the Notice of Intent to Award.

II.4.4 Form of Protest

A Bidder who is qualified to protest should submit the protest to the Judicial Council's Solicitation email box: solicitations@jud.ca.gov. Additionally the following Protest requirements apply:

- 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 point of contact identified in the Introduction to this RFP. If the protest is hand-delivered, a receipt must be requested.
- The protest shall include the name, address, telephone and facsimile numbers, and email address of the party protesting or its representative.
- The title of the RFP under which the protest is submitted shall be included.
- A detailed description of the specific legal and factual grounds of protest and any supporting documentation shall be included.
- The specific ruling or relief requested must be stated.

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

II.4.5 Determination of RFP Specifications Protest, Submitted Prior to Submission of Proposal

Upon receipt of a timely and proper protest based on allegedly restrictive or defective specifications or other improprieties in the RFP process that are apparent, or should have been reasonably discovered prior to the submission of a Proposal, the Judicial Council will provide a written determination to the protestor prior to the Proposal Due Date. If the protesting party elects to appeal the decision, the protesting party will follow the appeals process outlined below and the Judicial Council, at its sole discretion, may elect to withhold the Notice of Intent to Award until the protest is resolved or denied or proceed with the award and implementation of the Agreement.

II.4.6 Determination of Protest Submitted After Submission of Proposal

Upon receipt of a timely and proper protest, the Judicial Council will investigate the protest and will provide a written response to the Bidder within a reasonable time. If the Judicial Council requires additional time to review the protest and is not able to provide a response within ten (10) business days, the Judicial Council will notify the Bidder. If the protesting party elects to appeal the decision, the protesting party will follow the appeals process outlined below. The Judicial Council, at its sole discretion, may elect to withhold the Notice of Intent to Award until the protest is resolved or denied or proceed with the Notice of Intent to Award and implementation of the Agreement.

II.4.7 Appeals Process

The Judicial Council's decision shall be considered the final action by the Judicial Council unless the protesting party thereafter seeks an appeal of the decision by filing a request to the Judicial

Council for appeal with the Judicial Council's Chief Administrative Officer, within five (5) calendar days of the issuance of the Judicial Council's initial decision to the protesting party.

The justification for appeal is specifically limited to:

- Facts and/or information related to the protest, as previously submitted, that were not available at the time the protest was originally submitted.
- The Judicial Council's decision contained errors of fact, and that such errors of fact were significant and material factors in the Judicial Council's primary decision.
- The decision of the Judicial Council was in error of law or regulation.

The Bidder's request for appeal shall include:

- The name, address, telephone, and facsimile numbers, and email address of the Bidder filing the appeal or its representative.
- A copy of the Judicial Council's initial decision.
- The legal and factual basis for the appeal.
- The 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 Chief Administrative Officer will review the request and the decision of the first Judicial Council protest reply and shall issue a final determination. The decision of the Judicial Council's Chief Administrative Officer shall constitute the final action of the Judicial Council.

II.4.8 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, the urgency of the procurement, and the impact of the recommendation(s) on the Judicial Council. The Judicial Council may recommend any combination of the following remedies:

- Terminate the Agreement for convenience.
- Re-solicit the requirement.
- Issue a new RFP.
- Refrain from exercising options to extend the term under the Agreement, if applicable.
- Award a Notice of Intent of Agreement consistent with statute or regulation.
- Other such remedies as may be required to promote compliance.

II.4.9 ANTI-TRUST CLAIMS

In submitting a Proposal to the Judicial Council, the Proposer offers and agrees that if

II.5 DISCLAIMER

Submission of a Proposal constitutes acknowledgment that Bidder has read and agrees to be bound by these rules.

The RFP does not constitute an Agreement or an offer for employment. The Judicial Council reserves the right to issue similar RFPs in the future. In addition, any Agreement awarded as a result of this RFP is subject to any additional restriction, limitation, established by the Judicial Council or condition enacted by the Legislature that may affect the provisions, funding, or terms of the Notice of Intent of Award of Agreement in any manner.

The Judicial Council reserves the right to make one award, multiple awards, or to reject all Proposals, in whole or in part, submitted in response to this RFP. The Judicial Council reserves the right to make no selection if Proposals are deemed to be outside the fiscal constraint or against the best interest of the Judicial Council.

This RFP does not commit the Judicial Council to pay the costs incurred in connection with any Proposal or to procure or contract for any services offered.

The Judicial Council reserves the right, at its sole discretion, to reject any portion and all of the Proposal or to modify the proposed scope, with or without reason. Omissions, evasions, alterations, additions or irregularities of any kind may constitute sufficient cause for rejection of a Proposal without further consideration. The Judicial Council reserves the right to negotiate any or all items with individual Bidders if it is deemed in the Judicial Council's best interest.

All materials submitted in response to the RFP will become the property of the Judicial Council and will be returned only at the Judicial Council's option and at the expense of the Proposer submitting the proposal.