



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

BARBARA D. UNDERWOOD
ATTORNEY GENERAL

DIVISION OF ADMINISTRATION
BUDGET AND FISCAL MANAGEMENT BUREAU

PURCHASING MEMORANDUM III

DATE: October 11, 2018

PLEASE ADDRESS INQUIRIES TO:

Pamela A. Harrington, *Contract Manager*
Telephone Number: (518) 776-2143
E-Mail: purchase@ag.ny.gov

REQUEST FOR PROPOSAL NO.: 18-006

TITLE: Electronic Data Discovery Services (EDDS)

BID DUE DATE: November 5, 2018 by 5:00 PM EST

PERIOD: January 1, 2019 to December 31, 2021; with two (2) one-year renewal options

SUBJECT: Answers to Questions/Inquiries

TO: ALL PROSPECTIVE APPLICANTS

In reference to the above Request for Proposals, the following questions/inquiries were submitted by the September 25, 2018 deadline. We are hereby providing answers to each question below:

1. **QUESTION:** Can we please get the bid documents for the Electronic Data Discovery Services.
ANSWER: A copy of the Request for Proposals (RFP) #18-006 is available at the OAG website:
<https://ag.ny.gov/budget-and-fiscal-management-bureau-procurement>.

The OAG also encourages responders to register with the New York State Contract Reporter (NYSCR) at <https://www.nyscr.ny.gov> to receive notifications about this Solicitation. Navigate to the "I want to find contracts to bid on" page to register for your free account. To receive e-mail notifications regarding updates to the content or status of a particular ad, you must "bookmark the ad" on the upper right-hand side of the ad, then return to your Account, view your list of bookmarked ads, and then select "send me notification updates" option listed to the right of the ad. Any updates to Solicitation documents will also be posted and released through the NYSCR. If you do not opt-in to receive notification updates regarding a specific ad, you will not receive e-mail notifications regarding updates, including e-mail notifications regarding the questions and answers document and updates to Solicitation documents.

Updates to the RFP (including will be posted on both the OAG website and the NYSCR.

2. **QUESTION:** I recently came across this project: Electronic Data Discovery Services (EDDS) I am hoping you can email me a copy of any specifications and/or documents associated with this project. If they can't be emailed, please let me know. Please do not send them if a fee is required.
ANSWER: See Answer to Question #1



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3. QUESTION: As a registrant for the above EDDS RFP (attached), I have looked through the document and am unable to locate either a link to, or an attachment named the "EDDS Price Schedule" referenced as an Excel attachment entitled "Attachment B" in the document. Kindly advise as to where we can find this document or link.

ANSWER: See Answer to Question #1

4. QUESTION: The Office of the Attorney General (OAG) certainly cast a wide net when asking for responses to their RFP. While Transend was included in the invitation we do not offer the services they are requesting, however, we do offer a solution that would allow you to meet their data conversion requirements. I recognize many of the names on the list and many of you are already (or have been) customers of Transend. We would be happy to partner with anyone responding and can offer special discounts for this RFP in particular. I know there is great deal to digest from the OAG RFP, but please feel free to reach out to me directly for any pricing on the Transend Migrator Forensic Edition software that may be used to perform the electronic data discovery/conversion services that OAG is requesting.

ANSWER: No question is posed in this vendor's response.

5. QUESTION: Are you planning to provide Attachment B (EDDS Price Schedule) to those that are interested in responding to your RFP as I don't believe it was included as part of the initial RFP document/package provided? I am interested in receiving Attachment B (EDDS Price Schedule) in order to review, complete and submit as part of our RFP submission.

ANSWER: See Answer to Question #1

6. QUESTION: Thank you for your invitation to participate in this RFP. Our firm provides Review Services and Project Management and is an experienced provider of each of the types of contractors that are needed for this section. We do not provide any of the other e-discovery services in sections B - J. Will the OAG consider a vendor who does only the staffing portion of the contract?

ANSWER: The OAG is currently seeking organizations/firms that can provide all-inclusive services.

7. QUESTION: Thank you for including us in the NYOAG review of eDiscovery providers. One question related to Attachment B – EDDS Pricing Schedule; it appears this attachment was not included in the file we downloaded from the OAG website. Will this be provided separately?

ANSWER: Please see Answer to Question #1

8. QUESTION: Is it common practice for the State of NY to list all potential respondents to a bid on communication? We have been solicited by some on this list as a result and I'm curious because I don't think I've ever seen a bid handled this way before.

ANSWER: There is no standard practice for soliciting vendors.

9. QUESTION: My firm and I would like to take part in the Request for Proposal (RFP) #18-006 for Electronic Data Discovery Services (EDDS). I imagine you will have many submissions to consider, so I want to make sure my firm is even eligible before we submit. I want to clarify the eligibility requirement of having a New York business presence. My firm, is a wholly owned subsidiary of another firm. My firm is an eDiscovery firm headquartered in Richmond, Virginia and does not have an office in New York. However, our parent company does have an office in New York City. Given the parent-subsidary relationship, would we be eligible to participate in the RFP?



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ANSWER: Yes. However, the proposal submission should be submitted in the parent company that has an office based in New York.

10. QUESTION: Our organization/firm would like to submit the following questions, related to the Electronic Data Discovery Services RFP #18-006, Section 2, Scope of Services and Deliverables:

A. Please provide some metrics to help respondents gauge the volume of staffing and work anticipated. Metrics such as the following would be helpful:

1. Number of active cases at any given time.

ANSWER: The OAG did not have a practice of outsourcing EDDS in 2016 or prior years. Since 2017, the OAG has outsourced eight document review only projects across a variety of subject matters, size and complexity.

2. Total number of cases supported in a given year.

ANSWER: This question is not relevant to the RFP as the OAG performs most eDiscovery related services in-house. The RFP is to identify vendors to supplemental services. As noted in the answer to Question 10a above, the OAG has outsourced review services for eight document review projects since 2017. The OAG has not outsourced any new processing or review projects during this period.

3. Size of cases on average (# of custodians or total GBS processed or both)

ANSWER: This question is not relevant to the RFP as noted in the answer to Question 10b above.

4. GBs or TBs of data typically processed per day or week or month.

ANSWER: This question is not relevant to the RFP as noted in the answer to Question 10b above.

5. Number and size of productions typically performed per day or week or month.

ANSWER: This question is not relevant to the RFP as noted in the answer to Question 10b above.

B. Is NYS open to implementing a new processing tool or solution, so long as it meets industry standard requirements and is compatible with Relativity?

ANSWER: The OAG is open to processing alternative established and proven processing technologies that output into Relativity.

1. If not, please describe the tools currently used for data processing today which vendors will need to utilize (Relativity? Nuix? Other?)

ANSWER: Not applicable.

2. If vendor has experienced e-Discovery personnel, but that do not have experience with these specific tools, will NYS provide training or are vendors expected to provide such training/expertise?

ANSWER: No

C. Please describe whether there are any unusual, non-standard applications or data sources which suppliers will be expected/required to support (e.g.; older versions of Lotus Notes, or a proprietary document storage system, etc.)

ANSWER: The OAG does not have any specific knowledge of any unusual, non-standard applications or data sources, however; such data is often encountered in an eDiscovery project.



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11. QUESTION: Our organization/firm questions:

- A. Who will be the main point of contact for this RFP and when will the RFP be available to review?

ANSWER: The designated contacts are listed on the cover page of the RFP. The RFP is public, thus the latter half of the question is not clear.

- B. Will there be an opportunity to meet the main point of contact or his/her team in person or on the phone?

ANSWER: No

- C. Will vendors be allowed to bid on only certain parts of the RFP or will “all inclusive” responses only be considered?

ANSWER: See Answer to Question #6

- D. If a vendor is not able to satisfy certain parts of the RFP, will that vendor still be considered?

ANSWER: See Answer to Question #6

- E. How many vendors is OAG planning on hiring? Can we assume that the contract will be awarded to multiple vendors?

ANSWER: The EDDS is a multiple award solicitation. Per RFP Section 5.4 the five (5) highest scoring responder proposals in each region will receive a tentative award.

- F. How will the OAG office select where to send eDiscovery work, in case of multiple vendor selection?

ANSWER: Please refer to RFP Section 3 Task Order Request (Mini-Bid) Process

- G. Will face time or conference call time be allowed to showcase vendor’s capabilities?

ANSWER: No

- H. Who wrote the EDDS RFP for the OAG office?

ANSWER: OAG Staff assembled the EDDS RFP.

- I. We are part of a publicly traded organization, but still keep certain financial information confidential. Will that automatically disqualify our organization/firm?

ANSWER: By law, the OAG must perform a vendor responsibility review before awarding an organization/firm contract. Any information that raises issues concerning a vendor’s responsibility including financial and organization capacity would have to be addressed during the agencies determination. If information is not disclosed the OAG may deem your organization non-responsible and ineligible for award.

- J. Can offshore resources be used for OAG’s work?

ANSWER: Per RFP Section 2.3 Contractor must provide the Services requested in this RFP domestically and ESI must be stored domestically within the United States. No Offshore outsourcing will be accepted.

- K. Is this RFP strictly for eDiscovery services or will it include legal staffing/contract and document review needs?

ANSWER: The RFP specifically requests legal staffing/contract and document review services.

- L. When will final decisions be made in terms of winning vendors?

ANSWER: Bid due dates and times have been revised per Purchasing Memorandum II issued October 4, 2018.

- M. How much work is the OAG’s office planning to outsource in terms of GBs, TBs etc.?

ANSWER: The OAG has incorporated its estimates in “Attachment B – EDDS Pricing Schedule”

- N. How much eDiscovery work was handled in 2017 and 2018?

ANSWER: Since 2017, the OAG has outsourced eight document review only projects across a variety of subject matters, size and complexity.



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12. QUESTION: On behalf of our organization/firm, below please find our list of questions related to EDDS RFP 18-006:
- A. We were unable to locate Attachment B (EDDS Price Schedule) referenced in Section 9.9.4 of the RFP, can you please provide this attachment? After receipt and review, will be permitted to send follow up questions regarding Attachment B?
ANSWER: See Question #1 concerning Attachment B (EDDS Price Schedule).
- B. We were unable to locate Attachment F (Confidentiality Agreement) referenced in Section 9.9.8 of the RFP, however we noticed Attachment C is also a Confidentiality Agreement. Is Attachment F a duplicate of Attachment C? If not, can you please provide Attachment F?
ANSWER: Attachment F is a duplicate of Attachment C. Please submit Attachment C – Confidentiality Agreement.
- C. Section 7.6.3 (Travel, Meals and Lodging) states “The OAG will not reimburse for expenses incurred for travel to and from a designated work location (commuting expenses), meals and/or lodging.” Does this include expenses for travel to remote locations for forensic collections?
ANSWER: The OAG has internal resources to handle travel to remote locations for forensic collections.
For Section 7.9 (Electronic Payment), do we need to register at the time of the Bid Proposal or upon award?
ANSWER: Upon Award
13. QUESTION: Please see our questions regarding the EDDS RFP 18-006 below: In regards to Attachment-b- edds-price schedule:
- A. Can vendors offer only some of the listed services, or do they have to be able to offer all listed services?
ANSWER: See Answer to Question #6
- B. Is the OAG open to alternative pricing plans that we feel could save it money through bundling, in addition to filling out the attachment?
ANSWER: The OAG will evaluate responses to this RFP based upon the traditional pricing model (Attachment B EDDS Price Schedule) outlined in the RFP. When awarding a project under the Task Order (Mini-Bid) process, the vendor may propose a lower rate in the mini-bid process than the traditional pricing model – however, the OAG cannot pay more to the vendor on the project than the traditional pricing quoted in their response to this RFP.
- C. Are data tiers for various services cumulative year-to-date, or only for a single task order?
ANSWER: The OAG intended to award projects to vendors that qualify on the basis of their RFP through a min-bid process and therefore any data tier metric would be based on the individual project.
- D. If the OAG had a request for customizations of the tools we use for hosting services, what service line would that fit under? If it does not fit under an existing service line, would the OAG consider adding a line for “Systems Engineer / Developer.”
ANSWER: The OAG does not anticipate the need for customization at this time.
- E. If the OAG wanted consulting on eDiscovery process, technology best practices, or strategy, what service line would that fit under? If it does not fit under an existing service line, would the OAG consider adding a line for “eDiscovery Consultant”?
ANSWER: Attachment B has been revised to include E-Discovery Consultant for Region II (NYC) only as the title would not be applicable for the Region I (Albany).



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- F. If the OAG wanted consulting on the best use of analytics, or consultation regarding an opposing party's use of analytics, what service line would that fit under? If it does not fit under an existing service, would the OAG consider adding a line for "Information Scientist"?

ANSWER: It would fall under E-Discovery Consultant.

- G. For services in Section A. Review Services and Project Management, should vendors assume that these services will be fulfilled entirely on premise at vendor's offices or entirely on premise at the OAG's offices? Otherwise, should the not to exceed rate that we submit assume the more expensive rate of the two?

ANSWER: For Region I (Albany) services will be fulfilled entirely on premise at OAG's designated office. For Region II (NYC) services may be requested to be fulfilled on premise at the vendor's facility. Attachment B EDDS Price Schedule has been revised to include a "Off-Site Not-To-Exceed Fully Burdened Labor Rate (LHR)" column (Cells F2 to F16).

- H. In Section H Hosted Services, the Vendors are asked to "Describe" certain aspects of the service. Should we provide this description in Column H, or someplace within the main RFP response document? If the later, where in the document would the OAG prefer we put the description?

ANSWER: Attachment B (EDDS) Price Schedule has been revised to include a "Description" field (Cell C75).

- I. The price sheet mentions "Relativity" explicitly in some services. If vendors plan to use an alternate platform to Relativity, should we assume that these services are still applicable to us and replace "Relativity" with the name of the alternate platform, or should we assume these services are only of interest to the OAG if Relativity is being used by the vendor?

ANSWER: The OAG uses Relativity as it's internal, default applications and therefore has a preference for Relativity, though we would consider having a project hosted an another application.

- J. Could the OAG describe the difference between the Review Attorney Service in Section A and the Subjective \ Issue Coding service in Section C?

ANSWER: Attachment B EDDS Price Schedule has been revised.

In Regards to edds-rfp-18-006

- K. Section 3 – Task Order Request (Mini-Bid) Process – Does the OAG have a set number of vendors it is seeking to sign a master contract with? i.e. Is there a set number of slots (3, 5, 10 etc.) the OAG is looking to fill, or is it simply that whatever vendor passes a certain evaluation threshold will receive a master contract and will be able to bid on Task Order Requests?

ANSWER: See Answer to Question #11.E.

5.3 Financial Criteria – "The cost proposal with the lowest grand total will be awarded the maximum financial criteria..." Are vendors able to only offer some services and not others? If so, has the OAG considered that vendors that only offer select services will have an unfair advantage when it comes to financial criteria evaluation? I.e. if a vendor only offers half of the listed services, they would have a significantly lower Grand Total then a vendor that offers all of them, even though the prices that the vendor does list may be more expensive across the board when compared to other vendors.

ANSWER: Please see Answer to Question #6

- L. 6.2 Submittal Questions – Will Vendors be able to ask follow up questions if needed to the answers provided by the OAG on September 25th?

ANSWER: No

- M. 6.4 Mandatory Technical Proposal Submittal Content – Could the OAG indicate what level of detail it would like vendors to provide in this section on a scale from 1 to 10, 1 being the minimum amount of detail



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required to fully address the specific requested information, and 10 being all possible and available detail related to the requested information?

ANSWER: Organization/firms are encouraged to put enough information to verify that they will be able to perform the services requested by the OAG.

- N. 7.11 SUBCONTRACTING - "The state reserves the right to reject any proposed subcontractor for bona fide business reasons..." Should vendors propose potential subcontractors with their response, or should these be proposed as they are relevant to each individual bid on each individual task order? If it is the former, where and how would the OAG prefer vendors identify the subcontractors they propose to use for certain services?

ANSWER: Contractors should identify all proposed subcontractors and provide a description of how and to what extent Bidders propose to utilize Subcontractors. Bidder should include in their narrative, at minimum:

1. **Plan for utilizing Subcontractors.**
2. **A comprehensive list of Subcontractors.**
3. **How Subcontractors are recruited and engaged throughout the life of the Contract.**
4. **Description of the responsibility of the Prime Contractor versus the responsibility of the Subcontractor.**

14. QUESTION: Thank you for the opportunity to work with the OAG. Please see our questions listed below.

- A. How often does OAG have to conduct e-discovery against datasets involving a large volume of foreign language documents?

ANSWER: The OAG occasionally but rarely conducts eDiscovery involving foreign language and, to date those data sets have not been large. The OAG does occasionally have the need for foreign language reviewers.

- B. Does OAG have any internal e-discovery project management or analyst resources? If so, what is OAG's preference in terms of a division of labor between internal and external resources?

ANSWER: The OAG has internal resources eDiscovery analysts and specialists that provide eDiscovery technical support and project management. The OAG does not anticipate the need for these services at this time.

- C. Do you anticipate that on most matters, a vendor will be engaged to conduct first pass document review? If so, will the choice of vendor be considered a separate buying decision from the choice of the e-discovery vendor?

ANSWER: The OAG conducts most matters internally and this RFP is intended to provide a procurement vehicle such that the OAG has the option to outsource specific projects. Since 2017, the projects that the OAG has outsourced have been limited to contract attorney document review. The OAG intends to engage document review vendors based on their document review proposals provided through the mini-bid processes as a separate determination from any other services that the OAG might require.

- D. How do you anticipate handling data collections? Please specify any data sources that you anticipate using internal resources to collect from. Please specify any data sources that you anticipate using external resources to collect from.

- E. **ANSWER: The OAG represents state agencies and may have the need for data collection services to assist with forensic acquisition of data from a state employee or state agency system. In the past, the OAG has used internal resources or the resources of the state agency in question to perform.**



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F. The PDF file was missing attachment B (pricing sheet), can we please have that emailed?

ANSWER: See Answer to Question #1

15. QUESTION:

A. Pricing Spreadsheet, cell B76 (both regions). The instructions ask us to “Describe whether hosting user or data fees can be prorated for partial month usage.” However, there is no place on the locked down spreadsheet to annotate and respond.

ANSWER: Attachment B (EDDS) Price Schedule has been revised to include a “Description” field (Cell C75).

B. Confirming that you will circulate all questions and responses to all participating vendors?

ANSWER: See Answer to Question #1

16. QUESTION: Below, please find questions and points for clarification from RVM in regard to EDDS RFP 18-006. We look forward to your response and completing the final submission. Please let us know if any of our questions are unclear.

A. There appear to be two missing documents/attachments. Please provide the following:

1. 9.9.3 Attachment A Bid Response Cover Form

ANSWER: Attachment A is on Page 79 of the RFP PDF package.

2. 9.9.8 Attachment F Confidentiality Agreement (is it the same as 9.9.5 Attachment C Confidentiality Agreement?)

ANSWER: Attach F is a duplicate of Attachment C. Please submit Attachment C – Confidentiality Agreement.

B. Regarding the pricing sheet:

1. What volume of work do you anticipate for processing and hosting?

ANSWER: The OAG conducts most matters internally and this RFP is intended to provide a procurement vehicle such that the OAG has the option to outsource specific projects. Since 2017, the projects that the OAG has not outsourced processing and hosting on any new matter except in instances when the OAG is part of a multistate project involving several states office of attorney general. We are uncertain if we will have a need for processing and hosting services but are seeking a procurement vehicle in case we should have the need.

2. For the purpose of estimating shipping cost of CDs or DVDs, to what city, state, and zip code will the contractor be required to ship the media?

ANSWER: The vender would likely provide other media to the OAG office in NYC (10005), Albany (12224), or Troy (12180).

3. Is the NYS Office of the Attorney General seeking Relativity Analytics pricing? If so, should the contractor add line items to Attachment B EDDS Price Schedule? And, can we offer other analytics tools?

ANSWER: No

4. Can the contractor provide additional line items to Attachment B EDDS Price Schedule that might not be specifically addressed (e.g., hosting support, technical associate, senior consultant, etc.)?

ANSWER: No, the contractor should not provide additional lines. However, the OAG has revised Attachment B EDDS Price Schedule.

5. Line 20, Subjective/Issue Coding, appears to relate to a processing, and therefore technical function, but it reads to us as something that requires a human to do with careful consideration. In our experience issue coding is by document, not page, and done during Managed Review.



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- a. With that said can you please describe the standard process for Subjective/Issue Coding and also note if it is accomplished via machine or human effort. If by human effort, is that a technical person, a paralegal level, or a barred attorney?

ANSWER: Subjective/Issue Coding refers to a determination made by a human reviewer who is attorney with an active bar license. The unit of measure should be a document as opposed to page.

6. Please provide the foreign languages most involved in your projects and the frequency of specialized review in a year.

ANSWER: See Answer to Question #14.A

- a. Can we break out the pricing based on your response to the language requirements, because each language may have a different rate?

ANSWER: The OAG will award the actual projects based on the Task Order (Mini-Bid) process. The mini-bid will specify the languages for which the OAG needs reviewers. Vendors that have qualified for the min-bid process through this RFP can provide pricing for the specific reviewer skill set at that time but the price proposed in the mini-bid process cannot exceed the pricing provided in the RFP.

- b. Can you please explain the requirements for medical and technical review services, and can we break out the pricing differently as each set of required skills has a different rate structure?

ANSWER: See answer to Question 16.B.6.a

- c. Can you please tell us how many fields we should assume for coding when estimating a per page quote on objective/bibliographic coding, and what are those fields outside of what is contemplated (date, document number, and document type)?

ANSWER: The contemplated fields include: Beginning Bates Number; Ending Bates Number; Date; Author; Recipient; Carbon Copy; Blind Carbon Copy; Document Type; Document Title (or Verbatim Re Line).

17. QUESTION: Thank you for considering us for this RFP. After reviewing the packet, we have the following questions:

- A. Under Section 6.5 (Mandatory Financial Proposal Requirement), there is a reference to an EDDS Price Schedule which is listed as an Excel spreadsheet. We did not receive a spreadsheet in the email below and did not find one on the website. Will one be provided for us to complete?

ANSWER: See Answer to Question 1

- B. Should the RFP response and supporting documentation, including the cover letter, be presented in single PDF or separate attachments per section?

ANSWER: The RFP response should be submitted in three (3) separate attachments:

- 1. Technical Proposal (including Cover Letter)**
- 2. Attachment B EDDS Price Schedule/Financial Proposal**
- 3. Appendices/Attachments**



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18. QUESTION: Below please find our organization's questions in relation to the subject RFP:
- A. Is the NYAG receptive to a joint submission from technology and service partners?
ANSWER: Yes. However, only one proposal shall be submitted, with one entity as the prime contractor and the other entity as a subcontractor. See Answer to Question #13.N for proposal requirements for subcontracting.
 - B. Does the NYAG have any technology-specific requirements that must be met as part of a proposal?
ANSWER: No
 - C. How much data does the NYAG typically host in its eDiscovery environment?
ANSWER: Assume for purposes of your response to this RFP that the OAG typically hosts 10 terabytes of data; however there is no guarantee, implied or otherwise, that a Contractor will receive any actual work because of any contract award resulting from this bid solicitation.
 - D. Do document reviews need to take place in Albany and/or New York City?
ANSWER: The OAG conducts document reviews in both Albany and in New York City.
19. QUESTION: We are working on our responses to the aforementioned RFP and was wondering if you can email, or point me to where I can download a copy of the referenced pricing grid?
ANSWER: See Answer to Question #1
20. QUESTION: EDDS RFP 18-006
- A. Section 6.4.2.2.b Can you kindly clarify what is requested for the question "Specific roles and responsibilities for staff who will provide placements under the resulting Contract."
ANSWER: The specific roles and responsibilities of the Responder are providing staffing services including variations in numbers of staff, as well as a successful history that includes hiring, recruiting, retaining and managing staff. The Responder should highlight experience related to deploying staff to demonstrate the Responder's capacity to undertake, manage, and complete Task Order (Mini-Bid) assignments promptly and to the satisfaction of the OAG.
 - B. Section 6.4.4 Legal Authority/Capacity Are you open to provision of domestic review services from outside of New York State?
ANSWER: No.
 - C. Section 6.6.7 NYS Vendor File Registration
 - 1. Our organization/firm is already an approved vendor for State of New York Office of the Attorney General, with some of our other products and services. Our ediscovery platform is a part of that same entity. Does this affect the RFP process in any way?
ANSWER: No
 - 2. Our legal managed services are provided under a separate entity. We have set up a VIN for this entity. The billing for our ediscovery platform and our services would be separate. Do we have to submit the documents as two separate entities or are we able to submit a joint RFP with one entity acting as a subcontractor to the other entity?
ANSWER: See Answer to Question #18.A
 - D. Section 7 Contract Provisions. We have additional terms and conditions in our order forms/statements of works for our products and services. Can we submit those as an attachment to this RFP response?
ANSWER: Yes, however, there is no guarantee that such terms and conditions shall be incorporated in any resulting contract.



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- E. Section 7.1 Order of Precedence. This section references a “Memorandum of Agreement (Contract)”. Will the order forms/statements of work we provide be considered for this Contract?

ANSWER:

- F. Section 7.2 Appendix B Notes. The revisions to Appendix B noted in Section 7 have incorrect references to Appendix B section numbers, based on the Appendix B we have been provided. Can we please either be provided updated section numbers or the correct Appendix B, as we want to ensure we’re reviewing the correct documents?

ANSWER: Section 7.2 has been revised with correct references as follows below.

7.2 APPENDIX B NOTES

The following Appendix B clause is hereby modified for the purpose of this solicitation:

A. Paragraph 62.a. – Limitation of Liability; which shall now read as follows:
Contractor’s liability for a claim, loss or liability arising out of, or connected with the products and services provided, and whether based upon default, or other liability such as breach of contract, warranty, negligence, misrepresentation or otherwise, shall in no case exceed direct damages in: (1)an amount equal to two times the amount of charges specified in the Task Assignment (said amount not to exceed a total of twelve (12) months charges payable under the applicable Task Assignment); or (2)\$100,000; whichever is greater.

B. The following Appendix B clause is hereby deleted for the purposes of this solicitation:
Paragraph 8 – Prevailing Wage Rates – Public Works and Building Contracts

C. The following Appendix B clauses are hereby clarified for the purposes of this solicitation:
Paragraph 7.b. – Confidential/Trade Secret Materials (Commissioner of Authorized User)

The Contractor must guarantee protection of all confidential information that they may obtain from the OAG.

D. Paragraph 15.f. – Best Pricing Offer

If Responder becomes a Contractor for the OAG, and participates in the Task Order Request (Mini-Bid) Process, Contractor will have to offer “best pricing” which does not exceed the maximum not-to-exceed rates for the personnel offered on a given Task Order.

E. Paragraph 46.a. – Termination For Cause

State law does require the non-breaching party take reasonable steps to mitigate its damages and that both parties to the contract operate in good faith.

- G. Section 9.9.4 Attachment B EDDS Price Schedule. Is it acceptable that we submit pricing for the document review platform (similar to Relativity) and not for document reviewers?

ANSWER: No. Attachment B EDDS Price Schedule is the only pricing the OAG will accept.

- H. Section 9.9.5 Attachment C Confidentiality Agreement Section 9.9.8 Attachment F Confidentiality Agreement Are Attachments C and F two separate confidentiality agreements? We did not receive Attachment F.

ANSWER: See answer to Question #12.B

- I. Section 9.9.12 Attachment K (Quick Guide to Workers’ Compensation and Disability Insurance) Are the proofs of workers’ compensation insurance and disability benefits insurance required at this stage or at a later date?

ANSWER: The OAG prefers forms be included at the time of proposal submission.



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21. QUESTION: Appendix A Section. Our company occasionally undergoes business reorganization. It is therefore imperative that we have the right to assign in the case of a business reorganization, such as a sale. Is it possible for us to have this limited right to assign without consent, although we would provide notice of assignment?

ANSWER: No.

22. QUESTION: The following questions are offered in regards to the EDDS RFP 18-006 – Spreadsheet.

A. Spreadsheet Column D In regards to the units provided in the spreadsheet (Hours/GB/Pages), do these values reflect contract, annual or project level amounts?

ANSWER: The unit values provided in the spreadsheet reflect the OAG's current best estimate of the Agency's annual outsourcing needs.

B. Spreadsheet Row 5 The Project Manager time, as defined, appears to be "Relationship Management", solely designed for client communications. Is there a provision for time spent managing the projects? If not, who do you see providing the project management?

ANSWER: Attachment B EDDS Price Schedule has been revised.

C. Spreadsheet Row 6 Please define the job functions of the Paralegals.

ANSWER: Paralegals are utilized during objective coding when the OAG does not require a licensed Attorney.

D. Spreadsheet Section C

1. Traditionally, it is common to price coding (Objective & Subjective) and Logical Document Delineation at a per document level since these values will be recorded at the document level. Would it be acceptable to propose pricing at the document level instead of the page level? If not, can you provide an "average pages per document" value to ensure standardized calculations?

ANSWER: Attachment B EDDS Price Schedule has been revised.

2. What are your Service Level Assurance (SLA) expectations for the various parts of the Proposal?

ANSWER: Will be delineated at the Task Order (Mini-Bids)

3. What "standard" fields are to be included in the document coding (Objective & Subjective)?

ANSWER: The contemplated fields include: Beginning Bates Number; Ending Bates Number; Date; Author; Recipient; Carbon Copy; Blind Carbon Copy; Document Type; Document Title (or Verbatim Re Line).

4. Can you provide a listing of the standard DOJ fields you would like used? As an alternative, can you provide a link to the version you would like to use?

ANSWER: The responder may refer to the "METADATA TABLE OF REQUESTED FIELDS" presented on pages 10-11 of the "DOJ Standard Specifications for Production of ESI : U.S. v. eBay, Inc." publicly available at <https://www.justice.gov/atr/case-document/file/494686/download>

5. Can you address the level of security that is expected?

ANSWER: The OAG expects that any vendor it engages will employ, at a minimum, industry standard securities protocols to include secure facilities (when applicable) with room level key card access, and vetted recruitment and staffing process including legal background checks. The OAG may specify more stringent requirements particular to a project via the Task Order (Mini-Bid) process.



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E. Spreadsheet Row 16 Hot Seat Technician

1. The description provided seems to have two job functions: Testifying & Trial Support. Would it be acceptable if testimony is reserved to the Forensic Expert and trial site support remains the sole function of the Hot Seat Technician?

ANSWER: Yes. Attachment B EDDS Price Schedule has been revised.

2. Can you provide an example of "common" and/or "desired" workflow?

ANSWER: Will be delineated during the Task Order (Mini-Bid) process.

3. How will data provided by opposing parties be handled?

ANSWER: The OAG typically receives data requested from other parties in a load file format. Should we stage that data for review it is handled similarly to all other data expect that there may be no need to process the data before loading.

4. Please provide some additional information & background regarding the support and services you would like included in Trial Support.

ANSWER: The OAG may engage a trial support consultation/technician to perform trial technology set up, to sit "hot seat" and operate "Trial Director" or another trial presentation application or tools during the course of the trial, to retrieve documents from the case document repository, and to perform trial technology teardown and packaging at the conclusion of the trial.

5. With all data remaining in the continental United States, is it acceptable for staff to access that data remotely from outside those same borders for the purposes of coding & review?

ANSWER: For purposes of this RFP, the OAG requires that all reviewers be physically present within the United States.

6. Will there be any migration of existing case data?

ANSWER: The OAG does not anticipate migration of any existing case data and this is not included in the scope of this RFP.

7. What are your expectations for on-site support vs. remote support?

ANSWER: THE OAG anticipates a level of support commiserate with the project and offsite support should be acceptable in most instances.

23. QUESTION: The following questions are offered in regards to the EDDS RFP 18-006.

- A. RFP Section 2.2 The RFP mentions Concept Searching, Predictive Coding, Clustering, Find Similar & Categorization as potential "advanced" features to assist in the identification of documents. How have these been used in the past? How are these expected to be used in this contract?

ANSWER: The OAG has utilized Predictive Coding and/or Analytics in the past to expedite review and to identify documents that are potentially of interest or relevant. The OAG expects to continue use of these technologies in the future as appropriate to the particular project.

- B. RFP Section 1.1.2 Defensive Litigation, last paragraph. In regards to processing & extracting metadata, you mention LAW as an application that has been used in the past. Is LAW a standard that should be maintained under this contract, or are you open to other processing applications?

ANSWER: The OAG is open to alternative processing applications.



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24. QUESTION: On Attachment B - NYS attachment B - edds-price_schedule.xlsx:

- A. Region I - Albany
Spreadsheet row 76 lists 150,000 GBs for hosting
- B. Region II - NYC
Spreadsheet row 76 lists 75,000 GBs for hosting

Please clarify whether the volumes as stated are intended to reflect costs to host 225,000 GBs across both locations of existing NYSOAG data, or whether you intend some other meaning. When quoting volumes this large, there is generally a lower price for legacy data because the volumes are known as compared to new data, where the volumes will vary. What is not apparent is whether this line item is all or nothing, conversion and moving of everything, or whether some data stays where it is and some moves. The costs and amounts billed for any provider bidding would be very different for example, if you are hosting 1,000 GBs in total as compared to 225,000 GBs in total.

ANSWER: Attachment B EDDS Price Schedule has been revised.

All other terms and conditions of the Request for Proposals remain the same.

This Purchasing Memorandum is to be signed, submitted and made a part of your proposal. If you have any questions, do not hesitate to contact the person listed on top of this memorandum.

VENDOR: _____

ADDRESS: _____

SIGNATURE OF BIDDER: _____

DATE: _____

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