

II. Scope of Services

A. Basic Contract Requirements

1. Type of Contract - DDOJ contemplates a contract under which the vendor will provide unlimited access to and usage of the minimum on-line legal and business research services described in Section (4) below; is seeking to expand upon its current base access to include more specific/premium databases and may include other research services (which should be identified in an offeror's technical proposal), for a firm fixed per month rate.

Other premium research services for which the offeror would charge shall, at all times during the contract term, be no greater than the offeror's then-current usage charges to its most favored customer(s). Offeror is requested to provide a current price list for these other services.

a. Term - The minimum length of contract term is four (4) years and having three (3) extension option periods for one (1) year per extension. Extensions must be in writing and signed by both parties. However, DDOJ will consider a longer term contract; an offeror may propose fixed terms of five (5) or six (6) years with three (3) one (1) year extension options which shall include the fixed terms specified on No. (4) below and may include pricing options on the additional services listed in Section (1) above.

b. Fixed monthly rate - Monthly rates must be the same for each month of the contract term. The offeror shall propose a fixed monthly rate over the term of the contract.

2. Form of Contract - Any contract resulting from this RFP must include the terms and conditions contained herein, subject to negotiation. Offers based upon different or inconsistent terms or conditions may be rejected at the sole discretion of DDDOJ.

3. Location of Services - The offeror must provide each separate location and unit of DDOJ with the capability to access, on-line, the offeror's system and to use all of the services provided under the contract without long-distance telephone charges via the web, and from any location.

4. Unlimited Access and Usage Services - For the fixed monthly rate, the offeror must make available unlimited access to and usage of its legal and business research services to all staff both temporary and permanent, including but not limited to, deputy attorneys general, staff attorneys, legal assistants, paralegals, satellite staff, contract staff, casual/seasonal and other support staff.

At a minimum, these legal and business services should include, but may not be limited to:

- (a) Federal judicial and administrative decisions;
- (b) Federal statutes and regulations;
- (c) Judicial decisions of all States;
- (d) Statutes and regulations of the States;
- (e) Citation services;
- (f) Specialized areas of the law, including relative sub categories, including but not limited to:
 - (1) Antitrust and Business Regulations;
 - (2) Bankruptcy Law;
 - (3) Communication Law;
 - (4) Energy Law;
 - (5) Family Law;
 - (6) Insurance Law;

- (7) Labor Law;
 - (8) Patent Law;
 - (9) Securities Law;
 - (10) Tax Law;
 - (11) Trade Regulations;
 - (12) Public Contracts Law;
 - (13) Comptroller General decisions;
 - (14) Commercial Law;
 - (15) Intellectual Property Law;
 - (16) Technology Law;
 - (17) Corporate Law;
 - (18) Other Administrative Law and practice guide material.
- (g) Legal and business journals and law reviews;
 - (h) Newspapers, magazines and other news and business periodicals;
 - (i) Legal and general information indices and treatises;
 - (j) Briefs and pleadings.

All Proposals shall include written identification of the specific legal services offered on an unlimited access and usage basis, as well as any which it proposes to exclude and instead offer on a charge-for-use basis. The costs of on and off-line printing if applicable, and for software and training prescribed in Sections (5) and (6) herein must be included within the fixed monthly rate for unlimited access and usage. Additionally, the offeror shall provide passwords for any system for designated DDOJ personnel authorized to use optional service(s) on a charge-for-use basis beyond those minimum services under the base contract. Special or

premium unlimited access passwords may only be given to certain administrative staff as designated by the DDOJ executive staff.

5. Software

The offeror must provide all necessary software, and/or software links, or the service must be fully accessible via the internet with no additional software required. This software must be compatible and operational with all mainstream commonly used operating systems; e.g., Microsoft, MAC/IOS, Lynux, etc as well as all mainstream commonly used office application suites and internet service providers/search engines; e.g., Microsoft Office, Corel Word Perfect, Google, Safari, Mozilla Firefox, etc. DDOJ Any compatibility limitations and/or restrictions must be noted in Offeror's response and included in the final agreement. To the extent specific software may be required, the offeror must provide software upgrades/updates when a unit's software changes. Software provided by the offeror must be compatible with the facilities and computer network environment at the various DDOJ facilities.

6. Training

The offeror must provide on-site training to DDOJ employees at specified intervals over the term of the contact not less than four (4) times per year. The site normally will be at DDOJ units in Delaware across three counties: New Castle, Kent, and Sussex. An offeror shall propose fixed intervals for, and provide a description of how it will deliver, this training service. Training must be provided on site, on request, between periodic, scheduled training sessions.

7. **Transition**

If an offeror is not a current provider, the offeror should explain how it will provide for transition. DDOJ's goal is to have training available to all users prior to or during the first month of the contract term. If an offeror is a current provider, the offeror should explain how it will facilitate a smooth transition if it is not selected. No charge will be allowed for transition services.

8. **Support**

The offeror must provide toll-free telephone and other support as needed. An offeror should explain its support capabilities and availability. It is anticipated and will be assumed that the cost of all support services is included in an offeror's fixed monthly rate unless the proposal states otherwise. Any Proposing party's caveats charges, or statements in pre-printed commercial literature or price lists shall not be effective unless such terms are specified in the body of the proposal.

9. **Invoices**

The offeror should submit invoices on a monthly basis that include all charges. Invoices should have supporting detail that includes the date of service, identity of the individual user, the type and quantity of service used, and, if a premium service, the amount charged for each service so identified, and a total of each DDOJ unit or individual. An offeror should include a sample or hypothetical invoice with its proposal from which DDOJ may assess the suitability of the supporting information that the offeror will provide. Offeror shall provide DDOJ account administrators with Administrative access for both billing and user accounts creation/maintenance.

10. **Other Research Services Sought by DDOJ**

DDOJ may award contracts to several on-line research vendors to obtain access to the research services it requires -- no offeror should expect an exclusive award as the sole provider of all on-line research services.

III. Required Information

The following information shall be provided in each proposal in the order listed below. Failure to respond to any request for information within this proposal may result in rejection of the proposal at the sole discretion of DDOJ.

A. Minimum Requirements

1. Delaware business license:
Provide evidence of a Delaware business license or evidence of an application to obtain the business license.
2. Professional liability insurance:
Provide evidence of professional liability insurance in the amount of \$1,000,000.00.

B. General Evaluation Requirements [Use one or more of the subsections below]

1. Services, equipment, capabilities, etc.
2. Ability of the offeror, its proposal, and its on-line system to satisfy DDOJ's office-wide needs for legal and other on-line research
3. Offeror's training and support capabilities committed and/or available to DDOJ
4. Offerors lowest overall cost to DDOJ for providing unlimited access and usage for its on-line legal research services under a flat rate

The following information shall be provided in each proposal in the order listed below. Failure to respond to any request for information may result in rejection of the proposal in the sole discretion of the State:

1. Offeror shall provide a detailed description of the services, equipment. Capabilities, etc. that it intends to use to provide unlimited access and usage of the databases specified in Section II above.
2. Offeror shall describe its ability to implement its proposal to provide an on-line system capable of satisfying DDOJ's office-wide needs for legal and other on-line research as outlined herein and specified in Section II above.
3. Offeror shall describe its training and support capabilities committed and/or available to DDOJ.
4. Offeror must submit its lowest overall cost to DDOJ for providing unlimited access and usage for on-line legal research services under a flat rate agreement for the services stated in Section II (A) above. This cost proposal will include evaluation of costs over the contract term(s) proposed by an offeror
5. Offeror should submit copies of any licensing and/or maintenance agreements associated with the DDOJ's usage. DDOJ reserves the right to negotiate the terms of such agreements prior to contract execution.

IV. Professional Services RFP Administrative Information

A. RFP Issuance

1. Obtaining Copies of the RFP

This RFP is available in electronic form through the State of Delaware Procurement website at www.bids.delaware.gov. Paper copies of this RFP will not be available.

2. Public Notice

Public notice has been provided in accordance with 29 *Del. C.* § 6981.

3. Assistance to Vendors with a Disability

Vendors with a disability may receive accommodation regarding the means of communicating this RFP or participating in the procurement process. For more information, contact the Designated Contact no later than ten days prior to the deadline for receipt of proposals.

4. RFP Designated Contact

All requests, questions, or other communications about this RFP shall be made in writing to DDOJ. Address all communications to the person listed below; communications made to other State of Delaware personnel or attempting to ask questions by phone or in person will not be allowed or recognized as valid and may disqualify the vendor. Vendors should rely only on written statements issued by the RFP designated contact.

Earl McCloskey, Director of Operations
Delaware Department of Justice
820 N. French Street, 6th Floor
Wilmington, DE 19801
Earl.McCloskey@state.de.us

To ensure that written requests are received and answered in a timely manner, electronic mail (e-mail) correspondence is acceptable, but other forms of delivery, such as postal and courier services can also be used.

5. Consultants and Legal Counsel

DDOJ may retain consultants or legal counsel to assist in the review and evaluation of this RFP and the vendors' responses. Bidders shall not contact consultant or legal counsel on any matter related to the RFP.

6. Contact with State Employees

Direct contact with State of Delaware employees other than DDOJ Designated Contact regarding this RFP is expressly prohibited without prior consent. Vendors directly contacting State of Delaware employees

risk elimination of their proposal from further consideration. Exceptions exist only for organizations currently doing business in the State who require contact in the normal course of doing that business.

7. Organizations Ineligible to Bid

Any individual, business, organization, corporation, consortium, partnership, joint venture, or any other entity including subcontractors currently debarred or suspended is ineligible to bid. Any entity ineligible to conduct business in the State of Delaware for any reason is ineligible to respond to the RFP.

8. Exclusions

The Proposal Evaluation Team reserves the right to refuse to consider any proposal from a vendor who:

- a) Has been convicted for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, or subcontract, or in the performance of the contract or subcontract;
- b) Has been convicted under State or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offense indicating a lack of business integrity or business honesty that currently and seriously affects responsibility as a State contractor;
- c) Has been convicted or has had a civil judgment entered for a violation under State or Federal antitrust statutes;
- d) Has violated contract provisions such as:
 - 1) Knowing failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - 2) Failure to perform or unsatisfactory performance in accordance with terms of one or more contracts;

- e) Has violated ethical standards set out in law or regulation; and
- f) Any other cause listed in regulations of the State of Delaware determined to be serious and compelling as to affect responsibility as a State contractor, including suspension or debarment by another governmental entity for a cause listed in the regulations.

B. RFP Submissions

1. Acknowledgement of Understanding of Terms

By submitting a bid, each vendor shall be deemed to acknowledge that it has carefully read all sections of this RFP, including all forms, schedules and exhibits hereto, and has fully informed itself as to all existing conditions and limitations.

2. Proposal Procedures

To be considered, all proposals must be submitted in writing and respond to the items outlined in this RFP. DDOJ reserves the right to reject any non-responsive or non-conforming proposals. Each proposal must be submitted with two paper copies and two electronic copies on CD.

All properly sealed and marked proposals are to be sent to tDDOJ and received no later than 5:00 **PM EST** on **July 15, 2013**_____. The Proposals may be delivered by Express Delivery (e.g., FedEx, UPS, etc.), US Mail, or by hand to:

Earl McCloskey, Director of Operations
Delaware Department of Justice
820 N. French Street, 6th Floor
Wilmington, DE 19801

Any proposal submitted by US Mail shall be sent by either certified or registered mail. Proposals must be received at the above address no later than 5:00 PM EST on July 15, 2013. Any proposal received after this date shall not be considered and shall be returned unopened. The proposing vendor bears the risk of delays in delivery. The contents of any proposal shall not be disclosed as to be made available to competing entities during the negotiation process.

Upon receipt of vendor proposals, each vendor shall be presumed to be thoroughly familiar with all specifications and requirements of this RFP. The failure or omission to examine any form, instrument or document shall in no way relieve vendors from any obligation in respect to this RFP.

3. Proposal Modifications

Any changes, amendments or modifications to a proposal must be made in writing, submitted in the same manner as the original response and conspicuously labeled as a change, amendment or modification to a previously submitted proposal. Changes, amendments or modifications to proposals shall not be accepted or considered after the hour and date specified as the deadline for submission of proposals.

4. Proposal Costs and Expenses

DDOJ will not pay any costs incurred by any Vendor associated with any aspect of responding to this solicitation, including but not limited to: Vendor travel; proposal preparation; printing or delivery; attendance at vendor's conference(s); system demonstrations; or, negotiation process.

5. Proposal Expiration Date

Prices quoted in the proposal shall remain fixed and binding on the bidder at least through 120 days. DDOJ reserves the right to ask for an extension of time if needed.

6. Late Proposals

Proposals received after the specified date and time will not be accepted or considered. To guard against premature opening, sealed proposals shall be submitted, plainly marked with the proposal title, vendor name, and time and date of the proposal opening. Evaluation of the proposals is expected to begin shortly after the proposal due date. To document compliance with the deadline, the proposal will be date and time stamped upon receipt.

7. Proposal Opening

DDOJ will receive proposals until the date and time shown in this RFP. Proposals will be opened only in the presence of DDOJ personnel. Any unopened proposals will be returned to Vendor.

There will be no public opening of proposals but a public log will be kept of the names of all vendor organizations that submitted proposals. The contents of any proposal shall not be disclosed to competing vendors prior to contract award.

8. Non-Conforming Proposals

Non-conforming proposals will not be considered. Non-conforming proposals are defined as those that do not meet the requirements of this RFP. The determination of whether an RFP requirement is substantive or a mere formality shall reside solely within the DDOJ.

9. Concise Proposals

DDOJ discourages overly lengthy and costly proposals. It is the desire that proposals be prepared in a straightforward and concise manner.

Unnecessarily elaborate brochures or other promotional materials beyond those sufficient to present a complete and effective proposal are not desired. DDOJ's interest is in the quality and responsiveness of the proposal.

10. Realistic Proposals

It is the expectation of DDOJ that vendors can fully satisfy the obligations of the proposal in the manner and timeframe defined within the proposal. Proposals must be realistic and must represent the best estimate of time, materials and other costs including the impact of inflation and any economic or other factors that are reasonably predictable.

DDOJ shall bear no responsibility or increase obligation for a vendor's failure to accurately estimate the costs or resources required to meet the obligations defined in the proposal.

11. Confidentiality of Documents

All documents submitted as part of the vendor's proposal will be deemed confidential during the evaluation process. Vendor proposals will not be available for review by anyone other than the DDOJ/Proposal Evaluation Team or its designated agents. There shall be no disclosure of any vendor's information to a competing vendor prior to award of the contract.

DDOJ is a public agency as defined by state law, and as such, it is subject to the Delaware Freedom of Information Act, 29 *Del. C.* Ch. 100. Under the law, all DDOJ's procurement records are public records (unless otherwise declared by law to be confidential) and are subject to inspection and copying by any person. Vendor(s) are advised that once a proposal is received by and a decision on contract award is made, its contents may become public record and nothing contained in the proposal will be deemed to be confidential except proprietary information.

Vendor(s) shall not include any information in their proposal that is proprietary in nature or that they would not want to be released to the public. Proposals must contain sufficient information to be evaluated and a contract written without reference to any proprietary information. If a vendor feels that they cannot submit their proposal without including proprietary information, they must adhere to the following procedure or their proposal may be deemed unresponsive and will not be recommended for selection. **Vendor(s) must submit such information in a separate, sealed envelope labeled "Proprietary Information" with the RFP number.** The envelope must contain a letter from the Vendor's legal counsel describing the documents in the envelope, representing in good faith that the information in each document is not "public record" as defined by 29 *Del. C.* § 10002(d), and briefly stating the reasons that each document meets the said definitions.

Upon receipt of a proposal accompanied by such a separate, sealed envelope, DDOJ will open the envelope to determine whether the procedure described above has been followed.

12. Sub-Contracting

The vendor selected shall be solely responsible for contractual performance and management of all subcontract relationships. This contract allows subcontracting assignments; however, vendors assume all responsibility for work quality, delivery, installation, maintenance, and any supporting services required by a subcontractor.

Use of subcontractors must be clearly explained in the proposal, and subcontractors must be identified by name. Any sub-contractors must be approved by DDOJ.

13. Discrepancies and Omissions

Vendor is fully responsible for the completeness and accuracy of their proposal, and for examining this RFP and all addenda. Failure to do so will be at the sole risk of vendor. Should vendor find discrepancies, omissions, unclear or ambiguous intent or meaning, or should any questions arise concerning this RFP, vendor shall notify DDOJ's Designated Contact, in writing, of such findings at least ten (10) days before the proposal opening. This will allow issuance of any necessary addenda. It will also help prevent the opening of a defective proposal and exposure of vendor's proposal upon which award could not be made. All unresolved issues should be addressed in the proposal.

Protests based on any omission or error, or on the content of the solicitation, will be disallowed if these faults have not been brought to the attention of the Designated Contact, in writing, no later than ten (10) calendar days prior to the time set for opening of the proposals.

a. RFP Question and Answer Process

The DDOJ will allow written requests for clarification of the RFP. All questions will be consolidated into a single set of responses and posted on the State's website at www.bids.delaware.gov on/around 12:00 PM each Friday. Vendors' names will be removed from questions in the responses released. Questions should be submitted to the Director of Operations via email in the following format. Deviations from this format will not be accepted.

Section number

Paragraph number

Page number

Text of passage being questioned

Question

Questions not submitted electronically shall be accompanied by a CD and questions shall be formatted in Microsoft Word.

14. State's Right to Reject Proposals

The DDOJ reserves the right to accept or reject any or all proposals or any part of any proposal, to waive defects, technicalities or any specifications (whether they be in DDOJ's specifications or vendor's response), to sit and act as sole judge of the merit and qualifications of each product offered, or to solicit new proposals on the same project or on a modified project which may include portions of the originally proposed project as DDOJ may deem necessary in the best interest of DDOJ.

15. State's Right to Cancel Solicitation

The DDOJ reserves the right to cancel this solicitation at any time during the procurement process, for any reason or for no reason. DDOJ makes no commitments expressed or implied, that this process will result in a business transaction with any vendor.

This RFP does not constitute an offer by DDOJ. Vendor's participation in this process may result in DDOJ selecting your organization to engage in further discussions and negotiations toward execution of a contract. The commencement of such negotiations does not, however, signify a commitment by DDOJ to execute a contract nor to continue negotiations. DDOJ may terminate negotiations at any time and for any reason, or for no reason.

16. State's Right to Award Multiple Source Contracting

Pursuant to 29 *Del. C.* § 6986, DDOJ may award a contract for a particular professional service to two or more vendors if the agency head makes a determination that such an award is in the best interest of DDOJ.

17. Notification of Withdrawal of Proposal

Vendor may modify or withdraw its proposal by written request, provided that both proposal and request is received by DDOJ prior to the proposal due date. Proposals may be re-submitted in accordance with the proposal due date in order to be considered further.

Proposals become the property of DDOJ at the proposal submission deadline. All proposals received are considered firm offers at that time.

18. Revisions to the RFP

If it becomes necessary to revise any part of the RFP, an addendum will be posted on the State of Delaware's website at www.bids.delaware.gov. DDOJ is not bound by any statement related to this RFP made by any State of Delaware employee, contractor or its agents.

19. Exceptions to the RFP

Any exceptions to the RFP, or DDOJ's terms and conditions, must be highlighted and included in writing in the proposal. Acceptance of exceptions is within the sole discretion of the evaluation committee.

20. Award of Contract

The final award of a contract is subject to approval by DDOJ. The DDOJ has the sole right to select the successful vendor(s) for award, to reject any proposal as unsatisfactory or non-responsive, to award a contract to other than the lowest priced proposal, to award multiple contracts, or not to award a contract, as a result of this RFP.

Notice in writing to a vendor of the acceptance of its proposal by DDOJ and the subsequent full execution of a written contract will constitute a contract, and no vendor will acquire any legal or equitable rights or privileges until the occurrence of both such events.

a. RFP Award Notifications

After reviews of the evaluation committee report and its recommendation, and once the contract terms and conditions have been finalized, DDOJ will award the contract.

The contract shall be awarded to the vendor whose proposal is most advantageous, taking into consideration the evaluation factors set forth in the RFP.

It should be explicitly noted that DDOJ is not obligated to award the contract to the vendor who submits the lowest bid or the vendor who receives the highest total point score, rather the contract will be awarded to the vendor whose proposal is the most advantageous to DDOJ. The award is subject to the appropriate DDOJ approvals.

After a final selection is made, the winning vendor will be invited to negotiate a contract with DDOJ; remaining vendors will be notified in writing of their selection status.

C. RFP Evaluation Process

An evaluation team composed of representatives of DDOJ will evaluate proposals on a variety of quantitative criteria. Neither the lowest price nor highest scoring proposal will necessarily be selected.

The DDOJ reserves full discretion to determine the competence and responsibility, professionally and/or financially, of vendors. Vendors are to provide in a timely manner any and all information that DDOJ may deem necessary to make a decision.

1. Proposal Evaluation Team

The Proposal Evaluation Team shall be comprised of representatives of the DDOJ. The Team shall determine which vendors meet the minimum requirements pursuant to selection criteria of the RFP and procedures established in *29 Del. C. §§ 6981 and 6982*. The Team may negotiate with one or more vendors during the same period and may, at its discretion, terminate negotiations with any or all vendors. The Team shall make a recommendation regarding the award to the Director of Operations as noted herein. The Director of Operations, Chief Deputy Attorney General or Chief of Staff shall have final authority, subject to the provisions of this RFP and *29 Del. C. § 6982*, to award a contract to the successful vendor in the best interests of DDOJ.

2. Proposal Selection Criteria

The Proposal Evaluation Team shall assign up to the maximum number of points for each Evaluation Item to each of the proposing vendor's proposals. All assignments of points shall be at the sole discretion of the Proposal Evaluation Team.

The proposals all contain the essential information on which the award decision shall be made. The information required to be submitted in response to this RFP has been determined by DDOJ to be essential for use by the Team in the bid evaluation and award process. Therefore, all instructions contained in this RFP shall be met in order to qualify as a responsive and responsible offeror and participate in the Proposal Evaluation Team's consideration for award. Proposals which do not meet or comply with the instructions of this RFP may be considered non-conforming and deemed non-responsive and subject to disqualification at the sole discretion of the Team.

The Team reserves the right to:

- Select for contract or for negotiations a proposal other than that with lowest costs.
- Reject any and all proposals or portions of proposals received in response to this RFP or to make no award or issue a new RFP.

- Waive or modify any information, irregularity, or inconsistency in proposals received.
- Request modification to proposals from any or all vendors during the contract review and negotiation.
- Negotiate any aspect of the proposal with any vendor and negotiate with more than one vendor at the same time.
- Select more than one vendor pursuant to 29 Del. C. §6986. Such selection will be based on the following criteria:
 - types of databases available.

a. Criteria Weight

All proposals shall be evaluated using the same criteria and scoring process. The following criteria shall be used by the Evaluation Team to evaluate proposals:

Criteria	Weight
Services, equipment, capabilities, etc.	20
Ability of the offeror, its proposal, and its on-line system to satisfy DDOJ's office-wide needs for legal and other on-line research	25
Offeror's training and support capabilities committed and/or available to DDOJ	15
Offerors lowest overall cost to DDOJ for providing unlimited access and usage for inclusive on-line legal research services/databases under a flat rate	40
Total Possible Score	100
	100%

3. Proposal Clarification

The Evaluation Team may contact any vendor in order to clarify uncertainties or eliminate confusion concerning the contents of a proposal. Proposals may not be modified as a result of any such clarification request.

4. References

The Evaluation Team may contact any customer of the vendor, whether or not included in the vendor's reference list, and use such information in the evaluation process. Additionally, DDOJ may choose to visit existing installations of comparable systems, which may or may not include vendor

personnel. If the vendor is involved in such site visits, DDOJ will pay travel costs only for DDOJ personnel for these visits.

5. Oral Presentations

Selected vendors may be invited to make oral presentations to the Evaluation Team. The vendor representative(s) attending the oral presentation shall be technically qualified to respond to questions related to the proposed system and its components.

All of the vendor's costs associated with participation in oral discussions and system demonstrations conducted for DDOJ are the vendor's responsibility.

D. Contract Terms and Conditions

1. General Information

- a. The term of the contract between the successful bidder and DDOJ shall be for **four (4)** years with **three (3)** extensions for a period of **one (1)** year for each extension.
- b. The selected vendor will be required to enter into a written agreement with the DDOJ. The DDOJ reserves the right to incorporate standard State contractual provisions into any contract negotiated as a result of a proposal submitted in response to this RFP. Any proposed modifications to the terms and conditions of the standard contract are subject to review and approval by DDOJ. Vendors will be required to sign the contract for all services, and may be required to sign additional agreements.
- c. The selected vendor or vendors will be expected to enter negotiations with DDOJ, which will result in a formal contract between parties. Procurement will be in accordance with subsequent contracted agreement. This RFP and the selected vendor's response to this RFP will be incorporated as part of any formal contract.
- d. DDOJ's standard contract will most likely be supplemented with the vendor's software license, support/maintenance, source code escrow agreements, and any other applicable agreements. The terms and conditions of these supplemented agreements will be negotiated with the finalist during actual contract negotiations.
- e. The successful vendor shall promptly execute a contract incorporating the terms of this RFP. No vendor is to begin any service prior to receipt a DDOJ purchase order signed by two authorized representatives of the agency requesting service, properly processed through the State of Delaware Accounting Office and the Department of Finance. The purchase order shall

serve as the authorization to proceed in accordance with the bid specifications and the special instructions, once it is received by the successful vendor.

- f. If the vendor to whom the award is made fails to enter into the agreement as herein provided, the award will be annulled, and an award may be made to another vendor. Such vendor shall fulfill every stipulation embraced herein as if they were the party to whom the first award was made.

2. Collusion or Fraud

Any evidence of agreement or collusion among vendor(s) and prospective vendor(s) acting to illegally restrain freedom from competition by agreement to offer a fixed price, or otherwise, will render the offers of such vendor(s) void.

By responding, the vendor shall be deemed to have represented and warranted that its proposal is not made in connection with any competing vendor submitting a separate response to this RFP, and is in all respects fair and without collusion or fraud; that the vendor did not participate in the RFP development process and had no knowledge of the specific contents of the RFP prior to its issuance; and that no employee or official of the State of Delaware participated directly or indirectly in the vendor's proposal preparation.

Advance knowledge of information which gives any particular vendor advantages over any other interested vendor(s), in advance of the opening of proposals, whether in response to advertising or an employee or representative thereof, will potentially void that particular proposal.

3. Lobbying and Gratuities

Lobbying or providing gratuities shall be strictly prohibited. Vendors found to be lobbying, providing gratuities to, or in any way attempting to influence a State of Delaware employee or agent of the State of Delaware concerning this RFP or the award of a contract resulting from this RFP shall have their proposal immediately rejected and shall be barred from further participation in this RFP.

The selected vendor will warrant that no person or selling agency has been employed or retained to solicit or secure a contract resulting from this RFP upon agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, the State of Delaware shall have the right to annul any contract resulting from this RFP without liability or at its discretion deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

All contact with State of Delaware employees, contractors or agents of the State of Delaware concerning this RFP shall be conducted in strict accordance with the manner, forum and conditions set forth in this RFP.

4. Solicitation of DDOJ Employees

Until contract award, vendors shall not, directly or indirectly, solicit any employee of DDOJ to leave DDOJ's employ in order to accept employment with the vendor, its affiliates, actual or prospective contractors, or any person acting in concert with vendor, without prior written approval of DDOJ's contracting officer. Solicitation of DDOJ employees by a vendor may result in rejection of the vendor's proposal.

This paragraph does not prevent the employment by a vendor of a DDOJ employee who has initiated contact with the vendor. However, DDOJ employees may be legally prohibited from accepting employment with the contractor or subcontractor under certain circumstances. Vendors may not knowingly employ a person who cannot legally accept employment under state or federal law. If a vendor discovers that they have done so, they must terminate that employment immediately.

5. General Contract Terms

a. Independent contractors

The parties to the contract shall be independent contractors to one another, and nothing herein shall be deemed to cause this agreement to create an agency, partnership, joint venture or employment relationship between parties. Each party shall be responsible for compliance with all applicable workers compensation, unemployment, disability insurance, social security withholding and all other similar matters. Neither party shall be liable for any debts, accounts, obligations or other liability whatsoever of the other party, or any other obligation of the other party to pay on the behalf of its employees or to withhold from any compensation paid to such employees any social benefits, workers compensation insurance premiums or any income or other similar taxes.

It may be at DDOJ's discretion as to the location of work for the contractual support personnel during the project period. DDOJ shall provide working space and sufficient supplies and material to augment the Contractor's services.

b. Non-Appropriation

In the event the General Assembly fails to appropriate the specific funds necessary to enter into or continue the contractual agreement, in whole or part, the agreement shall be terminated as to any obligation of DDOJ requiring the expenditure of money for which no specific appropriation is available at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds.

c. Licenses and Permits

In performance of the contract, the vendor will be required to comply with all applicable federal, state and local laws, ordinances, codes, and regulations. The cost of permits and other relevant costs required in the performance of the contract shall be borne by the successful vendor. The vendor shall be properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del. C.* § 2301.

Prior to receiving an award, the successful vendor shall either furnish DDOJ with proof of State of Delaware Business Licensure or initiate the process of application where required. An application may be requested in writing to: Division of Revenue, Carvel State Building, P.O. Box 8750, 820 N. French Street, Wilmington, DE 19899 or by telephone to the Business License Department – (302) 577-8778.

Information regarding the award of the contract will be given to the Division of Revenue. Failure to comply with the State of Delaware licensing requirements may subject vendor to applicable fines and/or interest penalties.

d. Notice

Any notice to DDOJ required under the contract shall be sent by registered mail to:

**Earl McCloskey, Director of Operations
Delaware Department of Justice
820 N. French Street, 6th floor
Wilmington, DE 19801**

e. Indemnification

1. General Indemnification.

By submitting a proposal, the proposing vendor agrees that in the event it is awarded a contract, it will indemnify and otherwise hold harmless the State of Delaware, its agents and employees from any and all liability, suits, actions, or claims, together with all costs, expenses for attorney's fees, arising out of the vendor's its agents and employees' performance work or services in connection with the contract, regardless of whether such suits, actions, claims or liabilities are based upon acts or failures to act attributable, in whole or part, to DDOJ, its employees or agents.

2. Proprietary Rights Indemnification

Vendor shall warrant that all elements of its solution, including all equipment, software, documentation, services and deliverables, do

not and will not infringe upon or violate any patent, copyright, trade secret or other proprietary rights of any third party. In the event of any claim, suit or action by any third party against the State of Delaware, the State of Delaware shall promptly notify the vendor in writing and vendor shall defend such claim, suit or action at vendor's expense, and vendor shall indemnify the State of Delaware against any loss, cost, damage, expense or liability arising out of such claim, suit or action (including, without limitation, litigation costs, lost employee time, and counsel fees) whether or not such claim, suit or action is successful.

If any equipment, software, services (including methods) products or other intellectual property used or furnished by the vendor (collectively "Products") is or in vendor's reasonable judgment is likely to be, held to constitute an infringing product, vendor shall at its expense and option either:

- (a) Procure the right for DDOJ to continue using the Product(s);
- (b) Replace the product with a non-infringing equivalent that satisfies all the requirements of the contract; or
- (c) Modify the Product(s) to make it or them non-infringing, provided that the modification does not materially alter the functionality or efficacy of the product or cause the Product(s) or any part of the work to fail to conform to the requirements of the Contract, or only alters the Product(s) to a degree that DDOJ agrees to and accepts in writing.

f. Insurance

1. Vendor recognizes that it is operating as an independent contractor and that it is liable for any and all losses, penalties, damages, expenses, attorney's fees, judgments, and/or settlements incurred by reason of injury to or death of any and all persons, or injury to any and all property, of any nature, arising out of the vendor's negligent performance under this contract, and particularly without limiting the foregoing, caused by, resulting from, or arising out of any act of omission on the part of the vendor in their negligent performance under this contract.
2. The vendor shall maintain such insurance as will protect against claims under Worker's Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under this contract. The vendor is an

independent contractor and is not an employee of the State of Delaware.

3. During the term of this contract, the vendor shall, at its own expense, carry insurance minimum limits as follows:

a.	Comprehensive General Liability	\$1,000,000/\$3,000,000
b.	Professional Liability/Misc. Error & Omissions/Product Liability	\$1,000,000/\$3,000,000

If the contractual service requires the transportation of departmental clients or staff, the vendor shall, in addition to the above coverage's, secure at its own expense the following coverage:

a.	Automotive Liability (Bodily Injury)	\$100,000/\$300,000
b.	Automotive Property Damage (to others)	\$ 25,000

4. The vendor shall provide a certificate of insurance as proof that the vendor has the required insurance.

g. Performance Requirements

The selected Vendor will warrant that its possesses, or has arranged through subcontractors, all capital and other equipment, labor, materials, and licenses necessary to carry out and complete the work hereunder in compliance with any and all Federal and State laws, and County and local ordinances, regulations and codes.

h. Warranty

The Vendor will provide a warranty that the deliverables provided pursuant to the contract will function as designed for a period of no less than one (1) year from the date of system acceptance. The warranty shall require the Vendor correct, at its own expense, the setup, configuration, customizations or modifications so that it functions according to DDOJ's requirements.

i. Costs and Payment Schedules

All contract costs must be as detailed specifically in the Vendor's cost proposal. No charges other than as specified in the proposal shall be allowed without written consent of DDOJ. The proposal costs shall

include full compensation for all taxes that the selected vendor is required to pay.

DDOJ will require a payment schedule based on defined and measurable milestones. Payments for services will not be made in advance of work performed. DDOJ may require holdback of contract monies until acceptable performance is demonstrated (as much as 25%).

j. Penalties

The DDOJ may include in the final contract penalty provisions for non-performance, such as liquidated damages.

k. Termination for Cause.

If for any reasons, or through any cause, the Vendor fails to fulfil in timely and proper manner his obligations under the contract, or if the Vendor violates any of the covenants, agreements or stipulations of the contract, DDOJ shall thereupon have the right to terminate the contract by giving written notice to the Vendor of such termination and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports or other material prepared by the Vendor under the contract shall, at the option of DDOJ, become its property, and the Vendor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is useable to DDOJ.

l. Termination for Convenience

The DDOJ may terminate the contract at any time by giving written notice of such termination and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports or other material prepared by the Vendor under the contract shall, at the option of DDOJ, become its property, and the Vendor shall be entitled to compensation for any satisfactory work completed on such documents and other materials which is useable to DDOJ. If the contract is terminated by DDOJ as so provided, the Vendor will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Vendor as covered by the contract, less payments of compensation previously made. Provided however, that if less than 60 percent of the services covered by the contract have been performed upon the effective date of termination, the Vendor shall be reimbursed (in addition to the above payment) for that portion of actual out of pocket

expenses (not otherwise reimbursed under the contract) incurred by the Vendor during the contract period which are directly attributable to the uncompleted portion of the services covered by the contract.

m. Non-discrimination

In performing the services subject to this RFP the vendor will agree that it will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. The successful vendor shall comply with all federal and state laws, regulations and policies pertaining to the prevention of discriminatory employment practice. Failure to perform under this provision constitutes a material breach of contract.

n. Covenant against Contingent Fees

The successful vendor will warrant that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement of understanding for a commission or percentage, brokerage or contingent fee excepting bona-fide employees, bona-fide established commercial or selling agencies maintained by the Vendor for the purpose of securing business. For breach or violation of this warranty DDOJ shall have the right to annul the contract without liability or at its discretion to deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

o. Vendor Activity

No activity is to be executed in an off shore facility, either by a subcontracted firm or a foreign office or division of the vendor. The vendor must attest to the fact that no activity will take place outside of the United States in its transmittal letter. Failure to adhere to this requirement is cause for elimination from future consideration.

p. Work Product

All materials and products developed under the executed contract by the vendor are the sole and exclusive property of DDOJ. The vendor will seek written permission to use any product created under the contract.

p. Contract Documents

The RFP, the purchase order, the executed contract and any supplemental documents between DDOJ and the successful vendor shall constitute the contract between DDOJ and the vendor. In the event there is any discrepancy between any of these contract documents, the following order of documents governs so that the former prevails over the latter: contract, DDOJ's RFP, Vendor's response to the RFP and purchase order. No other documents shall be considered. These documents will constitute the entire agreement between DDOJ and the vendor.

q. Applicable Law

The laws of the State of Delaware shall apply, except where Federal Law has precedence. The successful vendor consents to jurisdiction and venue in the State of Delaware.

In submitting a proposal, Vendors certify that they comply with all federal, state and local laws applicable to its activities and obligations including:

- (1) the laws of the State of Delaware;
- (2) the applicable portion of the Federal Civil Rights Act of 1964;
- (3) the Equal Employment Opportunity Act and the regulations issued there under by the federal government;
- (4) a condition that the proposal submitted was independently arrived at, without collusion, under penalty of perjury; and
- (5) that programs, services, and activities provided to the general public under resulting contract conform with the Americans with Disabilities Act of 1990, and the regulations issued there under by the federal government.

If any vendor fails to comply with (1) through (5) of this paragraph, DDOJ reserves the right to disregard the proposal, terminate the contract, or consider the vendor in default.

The selected vendor shall keep itself fully informed of and shall observe and comply with all applicable existing Federal and State laws, and County and local ordinances, regulations and codes, and those laws, ordinances, regulations, and codes adopted during its performance of the work.

r. Scope of Agreement

If the scope of any provision of the contract is determined to be too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the contract shall not thereby fail, but the scope of such provisions shall be curtailed only to the extent necessary to conform to the law.

s. Other General Conditions

- (1) **Current Version** – “Packaged” application and system software shall be the most current version generally available as of the date of the physical installation of the software.
- (2) **Current Manufacture** – Equipment specified and/or furnished under this specification shall be standard products of

manufacturers regularly engaged in the production of such equipment and shall be the manufacturer's latest design. All material and equipment offered shall be new and unused.

- (3) **Volumes and Quantities** – Activity volume estimates and other quantities have been reviewed for accuracy; however, they may be subject to change prior or subsequent to award of the contract.
- (4) **Prior Use** –DDOJ reserves the right to use equipment and material furnished under this proposal prior to final acceptance. Such use shall not constitute acceptance of the work or any part thereof by DDOJ.
- (5) **Status Reporting** – The selected vendor will be required to lead and/or participate in status meetings and submit status reports covering such items as progress of work being performed, milestones attained, resources expended, problems encountered and corrective action taken, until final system acceptance.
- (6) **Regulations** – All equipment, software and services must meet all applicable local, State and Federal regulations in effect on the date of the contract.
- (7) **Changes** – No alterations in any terms, conditions, delivery, price, quality, or specifications of items ordered will be effective without the written consent of DDOJ.
- (8) **Additional Terms and Conditions** –DDOJ reserves the right to add terms and conditions during the contract negotiations.

t. Certification Required.

All invoices, reports, documents provided in response to an audit, and any documentation provided to DDOJ pursuant to any contractual obligation, including any chart or compilation of data, report, or other document produced by the offeror shall contain the following certification:

“I hereby certify that the information reported herein is true, accurate and complete. I understand that these reports are made in support of claims for government funds.”

Any certification as required herein shall be provided only by the offeror's contract manager.

E. RFP Miscellaneous Information

1. No Press Releases or Public Disclosure

Vendors may not release any information about this RFP. DDOJ reserves the right to pre-approve any news or advertising releases concerning this RFP, the resulting contract, the work performed, or any reference to DDOJ with regard to any project or contract performance. Any such news or advertising releases pertaining to this RFP or resulting contract shall require the prior express written permission of DDOJ.

2. RFP Reference Library

The DDOJ has made every attempt to provide the necessary information within this RFP. DDOJ will make the reference library available only to the winning bidder.

3. Definitions of Requirements

To prevent any confusion about identifying requirements in this RFP, the following definition is offered: The words *shall*, *will* and/or *must* are used to designate a mandatory requirement. Vendors must respond to all mandatory requirements presented in the RFP. Failure to respond to a mandatory requirement may cause the disqualification of your proposal.

4. Production Environment Requirements

The DDOJ requires that all hardware, system software products, and application software products included in proposals be currently in use in a production environment by a least three other customers, have been in use for at least six months, and have been generally available from the manufacturers for a period of six months. Unreleased or beta test hardware, system software, or application software will not be acceptable.

END.