



CITY COUNCIL ACTION REQUEST

Department(s): Finance	CEQA: Not a Project, File No. PP17-003, Agreements/Contracts	Coordination: CAO and CMO - Budget Office	Dept. Approval: /s/ Julia H. Cooper
Council District(s): Citywide	(New or Amended) resulting in no physical changes to the environment		CMO Approval: 

SUBJECT: REPORT ON REQUEST FOR QUOTATION FOR EDISCOVERY SOFTWARE

RECOMMENDATION:

Accept the report on the Request for Quotation and adopt a resolution authorizing the City Attorney to:

- (a) Negotiate and execute an agreement with Modus eDiscovery, Inc. (Atlanta, GA) to provide eDiscovery Software for the City Attorney’s Office, including related professional services such as implementation, training, licensing, hosting, maintenance, and support, for a maximum compensation not to exceed \$83,000 during the initial one-year term beginning on or about July 1, 2022 and ending on or about June 30, 2023, subject to the appropriation of funds;
- (b) Negotiate and execute amendments and change orders as required for any unanticipated changes for a contingency amount not to exceed \$17,000 during the initial one-year term, subject to the appropriation of funds; and
- (c) Exercise up to four one-year options to extend the term of the agreement and the software license with the last option ending on or about June 30, 2027, in alignment with the software renewal term, subject to the appropriation of funds.

Desired Outcome: Authorizing the City Attorney to take this action will enhance the City Attorney’s Office’s ability to manage a high volume of documents efficiently and effectively for litigation and public records act requests.

BASIS FOR RECOMMENDATION:

eDiscovery software provides a document repository to manage high volumes of data and information used in litigation and public records act requests and includes features that support document review, processing, tagging, production, reporting, redaction, case management, and tracking. The City Attorney’s Office has used an eDiscovery solution from Logik Systems, Inc. DBA Logikcull for the past five years, but the current agreement expires on June 27, 2022.

In March 2022, the Finance Department released an evaluative Request for Quotation (RFQ) for eDiscovery software. Five responsive submissions were received prior to the submittal deadline and were evaluated and scored independently by a three-member evaluation panel comprised of representatives from the City Attorney’s Office. Four respondents who scored in the competitive range based on their initial evaluation scores were invited to participate in oral interviews/system demonstrations and a Best and Final Offer to make clarifications and obtain final pricing.

Evaluation scores for the four finalists are as follows:

Evaluation Criteria	Available Points	Carahsoft	Complete Discovery Source	Logik Systems, Inc.	Modus eDiscovery
General Requirements	10	6	8	6	8
Experience and Qualifications	5	4	4	3	4
Project Approach/Schedule	5	4	3	1	4
Technical Capabilities	20	16	16	14	18
Cost Proposal (BAFO)	20	19	20	15	17
Oral Interview/System Demonstration	30	19	15	23	23
Local Business Enterprise	5	0	0	0	0
Small Business Enterprise	5	0	0	0	0
Total	100	68	66	62	74

The City received one protest during the protest period from Logik Systems, Inc. DBA Logikcull, the City's current vendor of these services. The protest was carefully reviewed by the Chief Purchasing Officer whose response included an explanation regarding the City's inability to accept and consider additional information submitted by the vendor after the RFQ deadline, and the City's scoring methodology. The Chief Purchasing Officer consequently determined the City fairly evaluated and scored all responses received prior to the RFQ submittal deadline against the criteria set forth in the RFQ. The protest letter and the Chief Purchasing Officer response, which was emailed to the vendor on June 14, 2022, are attached to this City Council action request as Appendix A. The protestor has 10 calendar days from the date of City's response to appeal the decision to City Council.

Staff conducted reference checks for Modus eDiscovery, Inc. with the Arkansas Attorney General's Office, Spencer Fane LLP, and Walsh Group, Inc. All references provided positive feedback.

Based on these results, staff recommends award to Modus eDiscovery, Inc. as the most advantageous and best value proposal per the evaluation criteria set forth in the RFQ.

Approval of this recommendation will provide the City Attorney's Office a modern eDiscovery solution to continue to manage the high volume of documents required for litigation and public records act requests at an affordable cost.

Climate Smart San José: The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals.

Commission Recommendation/Input: There is no commission recommendation or input associated with this action.

This action is consistent with the City's 2022-2023 Proposed Operating Budget to ensure core services are delivered including services to advocate, defend, and prosecute on behalf of the City's interests, provide oral and written advice on legal issues, and prepare documents to implement official City actions.

COST AND FUNDING SOURCE:

Fund #	Appn. #	Appn. Name	Total Appn.	Amt. for Recommendation*	2022-2023 Proposed Operating Budget Page**	Last Budget Action (Date, Ord. No)
001	0442	Non-Personal/Equipment	\$2,054,055	\$83,000	384	N/A

*Does not include contingency, which is subject to an executed amendment or change order and the appropriation of funds.

** The 2022-2023 Proposed Operating Budget was released on May 4, 2022 and is scheduled to be reviewed on June 14, 2022 and adopted on June 21, 2022 by the City Council.

FOR QUESTIONS CONTACT: For program-related questions, please contact Kimberly Jackson, Chief of Staff, at kim.jackson@sanjoseca.gov. For procurement and contract-related questions, please contact Jennifer Cheng, Deputy Director of Finance, at jennifer.cheng@sanjoseca.gov.

Appendix A

Attention: Purchasing Officer: Protest to PUR-RFQ2022.02.10032

Sheeba Chenthitta <sheeba.chenthitta@logikcull.com>
To: Purchasing
Cc: Stein, Jonathan

Reply Reply All Forward Sun 6/5/2022 11:04 AM

You replied to this message on 6/6/2022 8:20 AM.

onboarding plan.pdf 159 KB
Protest to PUR-RFQ2022.02.10032.pdf 296 KB

You don't often get email from sheeba.chenthitta@logikcull.com. [Learn why this is important](#)

[External Email]

Hi Jonathan and team,

Logikcull is attaching our protest to PUR-RFQ2022.02.10032 for your review. We'd be happy to jump on a call in the next few days to review the decision and explain our position. We've valued your partnership over the last few years, and would welcome the opportunity to continue working with you.

Best,

Sheeba

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Logikcull's free Culler Certification is [available now!](#)



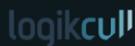
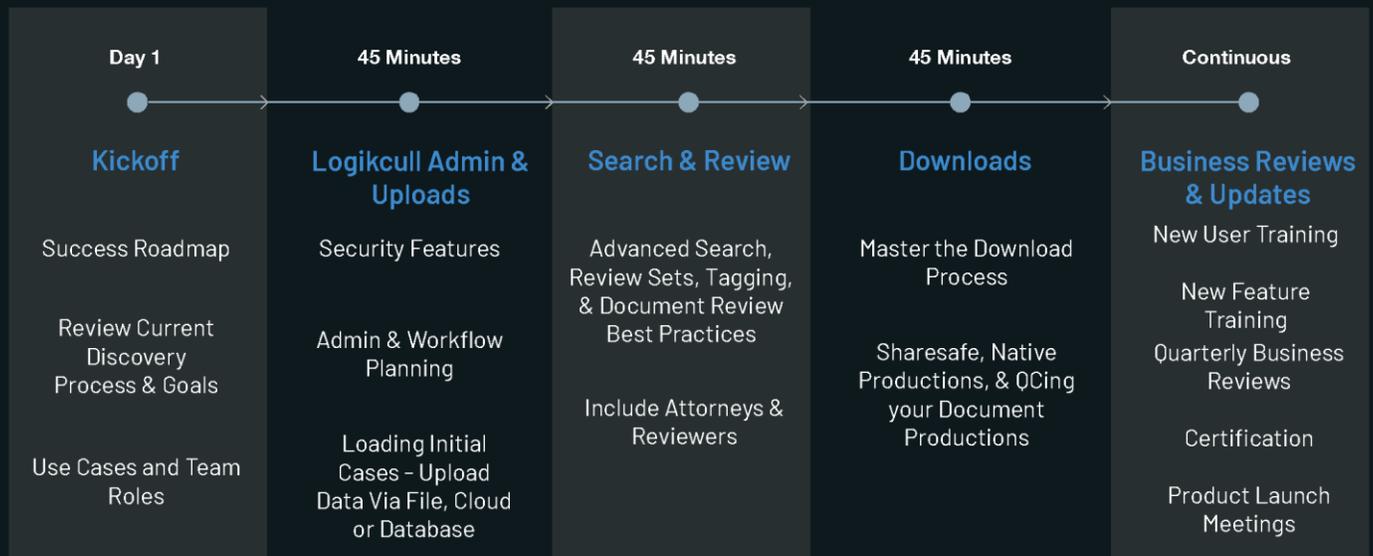
What is Culler Certification? It's a 30-minute, product-based exam that acts as a powerful validation to clients and employers of your commitment to speed, efficiency, and security during the discovery process.

Sheeba S. Chenthitta
Senior Customer Success Manager Logikcull.com
Sheeba.Chenthitta@logikcull.com
San Francisco, CA



INITIAL ONBOARDING SESSIONS

Providing you with the foundation you need to get started



Appendix A

City of San José
 Attention: Purchasing Officer
 200 East Santa Clara Street, 13th Floor
 San José, CA 95113

Evaluation Criteria	Available Points	Carahsoft	Complete Discovery Source	Logikcull	Modus eDiscovery
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Pursuant to Section 13 of the RFQ, interested parties may submit a protest, detailing the grounds, factual basis, and all supporting information for the protest, within two (2) calendar days after the release date of this notice.

Please accept this as Logikcull, Inc's. submission of a formal protest to the results of the City of San Jose's eDiscovery Software Request for Quotation.

It is our belief that the scored outcomes of the evaluation missed several key pieces of information and do not accurately reflect our performance against the San Jose City Attorney's Office requirements. Specifically:

- **General Requirements:**

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- Logikcull has successfully supported the San Jose City Attorney's Office for over 4 years, helping 29 users manage 52 projects and 387 GB of data.
- Logikcull meets all the requirements listed in Attachment A, so we protest the 6 out of 10 score:

Solutions Requirements

- Security - We meet the requirements in Attachment D and have an https:// connection.
- Hosting and Accessibility - Our software is a SaaS solution and is available in any modern browser, including Chrome, Firefox, Edge and Safari, and we provide unlimited uploads and downloads. We are able to detect foreign languages in documents.
- Reporting - All the reporting features requested in Attachment A are available in Logikcull, and users are able to pull the data on demand.
- Storage - Logikcull meets the storage requirements listed in Attachment A.
- Retention - Logikcull has the ability to archive and unarchive data instantaneously, and users are able to archive and unarchive on their end without having someone from Logikcull intervene.
- Uptime and Recovery -
 - The Logikcull app is available 24/7/365, so your projects are always accessible. The support team is available 24/7/365 to assist with questions.
 - All backups are stored in Logikcull's AWS environment with all applicable security controls applied (retention, encryption, access control, etc.). Snapshots are captured at least daily and full backups are run weekly. Backups are stored for no less than 7 days and no more than 1 month.

Implementation Requirements

- As part of the subscription, you have a dedicated Customer Success Manager who is available to assist with team onboarding, creating projects, ongoing training, and technical support.
- We manage the entire implementation process (which is included in our pricing) and do not disengage until the implementation has been successfully accepted by the customer.
- The San Jose City Attorney's Office has already gone through the implementation and onboarding process, and we are happy to do another full round of onboarding with the start of the new term.

Training Requirements

- We provide 4 onboarding sessions as part of the subscription, and then unlimited training as requested. We also provide monthly Q&A sessions.
- We have user guides in the form of online FAQs, on-demand videos, and certifications.

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- The City Attorney's Office has enjoyed this service over the past four years, receiving no less than 1,000 hours of training, Q&A sessions, and customer check-ins as part of its subscription.

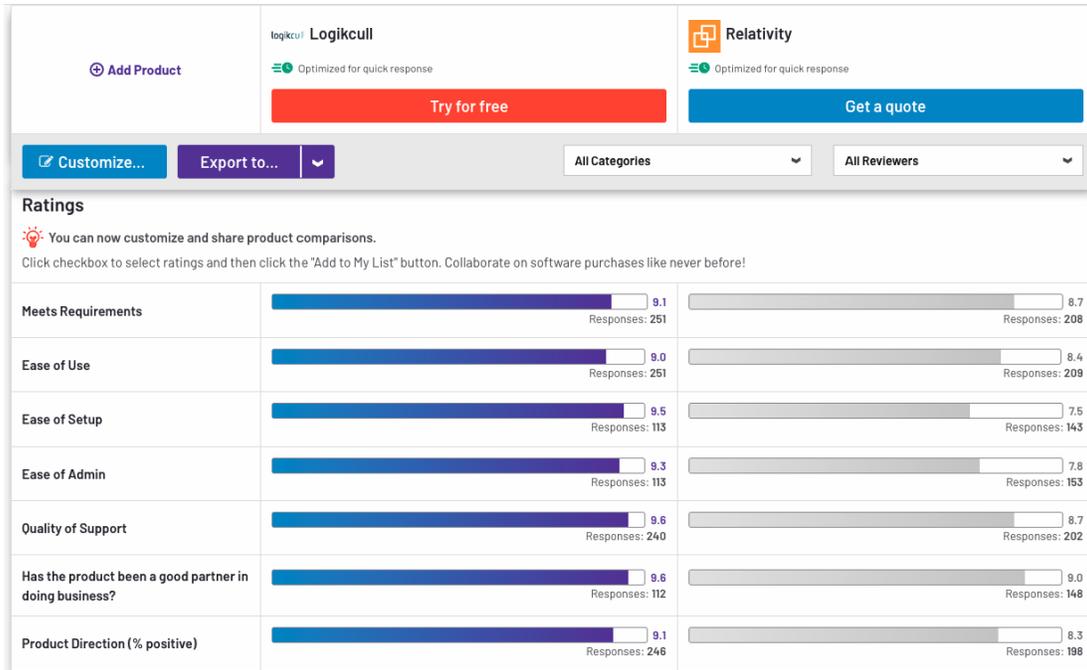
Warranty, support, and maintenance requirements

- Logikcull meets these requirements as outlined in Attachment A.

- **Experience and Qualifications:**

- We have an entire team of ediscovery professionals at Logikcull who currently support the San Jose account. In fact, we have supported the San Jose City Attorney's Office over the past four years, successfully helping manage over 56 matters during that period of time. Logikcull is used by city governments around the country, including New York, Chicago, and Boston, to manage everything from Public Records Act requests to complex ediscovery matters. Our team includes but is not limited to, the following:
 - Senior Customer Success Manager Sheeba Chenthitta: Attorney with 15 years of ediscovery experience at both Google and WilmerHale. She is available for ongoing live training, monthly Q&A office hours, and support during business hours.
 - Support team: Every member of the support team was an ediscovery professional before they joined Logikcull, and members of the team are ACEDS certified. They are experts not just at Logikcull, but at ediscovery in general. The support team is available 24/7/365 at no additional cost and is available for training, troubleshooting, and best practice knowledge sharing. This team consistently maintains a 99% CSAT rating, response times to customer questions in less than two minutes and has most tickets resolved in less than 90 minutes.
 - The company: Logikcull was founded in 2004 by CEO Andy Wilson and CTO Sheng Yang as an eDiscovery services company. After several successful years operating as an eDiscovery vendor—during which it was named among the fastest-growing tech companies in the US (Inc #181)—Logikcull transformed to cloud-based software, after concluding that the vendor market would eventually collapse due to its opaque fee arrangements, reliance on complex technology, and inability to innovate. Our engineering team ships new features on a monthly basis, and is constantly reviewing customer feedback to prioritize upcoming releases.
 - Logikcull is also the highest-rated ediscovery platform with G2, a peer-to-peer review site for business software. This is how we compare to vendors who use Relativity:

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- **Project Approach/Schedule:**
 - Logikcull received a score of 1 out of 5 for this section. We believe that we received a low score because our answer in the RFP wasn't placed at the top line of the response document.
 - Logikcull is a cloud-based software that doesn't require a detailed implementation/rollout. As long as your team has access to a modern web browser, they are able to create a new account and new projects within minutes and log into the San Jose account from anywhere, instantaneously. There is no additional cost to creating projects and adding new users. The City of San Jose's team has **52 projects** currently in Logikcull, and they've been created by different users without assistance from the Logikcull team (but we are always available to walk through the project creation process). This year, **the average upload was ready to review in 8 minutes, and there were 80 uploads.**
 - Our team is available to guide and assist the City in creating new projects and inviting new users into the account at no additional cost, through our 24/7/365 support team.
 - Our project plan is detailed in Form 3 of the Respondent Questionnaire, starting on page 3. Since you have the ability to create an account and projects instantaneously from anywhere, there is no need for a highly detailed implementation plan (not to mention that Logikcull is already implemented within The City's

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environment). In terms of getting the full team onboarded with Logikcull, to date there are already over 20 users onboarding, but for new users we provide continuous live training sessions, Q&A office hours, on-demand videos, and quarterly account reviews.

- The onboarding phase that we reviewed during the Oral Interview has 4 main components:
 - Initial Kickoff - This is where we review the discovery process and make sure you're able to access your account.
 - Uploads Onboarding - This session covers how to upload data to Logikcull, including PSTs, zip files, and productions.
 - Search and Review Onboarding - This session covers how to search and tag data, including best practices and how to generate reports.
 - Downloads Onboarding - This covers how to create a Bates stamped production, including how to create the privilege log.
 - The San Jose team has already had sessions on these different areas of Logikcull, and are **already onboarded**, so this criteria has been met for some time. Moving off of Logikcull will require the City of San Jose to spend valuable hours learning a new solution, where Logikcull is already known and the users onboarded.
 - **Given our onboarding has already been completed, we feel any decrease in our scoring here should be considered invalid.**

- **Technical Capabilities**
 - Logikcull is an end-to-end discovery platform, and we are continuously adding new features to enhance the user experience. We're currently working on supporting additional features, such as the pxt file type and native Excel redactions.
 - We meet the mandatory and preferred requirements listed in Form 5, except for #43 - Capable of automatic redactions. Logikcull is capable of bulk redacting documents at the document level and will have the ability to bulk redact at the project level within the next few months. **We believe the score we received was too low since we don't support only one preferred request.**

- **Cost Proposal**
 - Logikcull's subscription pricing that we presented is all-inclusive of **24/7/365 support**, a dedicated customer success manager, and

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as many trainings and project assistance as your team needs to get up to speed on ediscovery.

- o The pricing includes unlimited productions and unlimited users. We don't have separate processing or hosting fees, or extra fees for elevated technical support.
- o Given our long experience in the ediscovery space, and our understanding of the cost structure of traditional ediscovery vendors, **we are concerned that our competitors weren't fully transparent about their pricing model.** We're including an analysis of the cost of using a traditional ediscovery vendor based on pricing we've seen for Relativity vendors in the past. Based on your activity over the last year, the traditional model will cost hundreds of thousands of dollars:

Cost Savings: Document Review	Total
Total matters added to Logikcull	18
Cost reduction per matter for review	\$37,654
% of matters where cost reduction applies	50%
Estimated number of matters that saw cost reduction	9
Estimated litigation cost savings within these matters	\$338,883
Cost Savings: eDiscovery	Total
Total matters added to Logikcull	18
Support: average amount of project manager hours/matter	10
Support: total project manager hours saved	180
Support: average hourly rate for project management support	\$175
<u>Support: estimated savings from support fees</u>	<u>\$31,500</u>
Processing: total GB uploaded for processing	200
Processing: average market price to process 1 GB for eDiscovery	\$50
<u>Processing: estimated savings from processing fees</u>	<u>\$10,000</u>
Hosting: total GB hosted on Logikcull	368
Hosting: average per 1 GB price for hosting per month	\$20
Hosting: estimated monthly saving from hosting fees	\$7,358
<u>Hosting: estimated annual saving from hosting fees</u>	<u>\$88,296</u>
Users: total users added	19
Users: average market price per user per month	\$100
Users: estimated monthly savings from user fees	\$1,900
<u>Users: estimated annual savings from user fees</u>	<u>\$22,800</u>
Productions: total productions (aka downloads) made	230
Productions: average market cost to produce each production	\$500
<u>Productions: estimated savings from production fees</u>	<u>\$115,000</u>
Estimated eDiscovery cost savings	\$267,596
Total estimated document review & eDiscovery cost savings with Logikcull	\$606,479

Appendix A

Re: Attention: Purchasing Officer: Protest to PUR-RFQ2022.02.10032



Sheeba Chenthitta <sheeba.chenthitta@logikcull.com>

To Purchasing
Cc Stein, Jonathan

Reply

Reply All

Forward



Tue 6/7/2022 2:00 PM

You replied to this message on 6/7/2022 2:25 PM.



You don't often get email from sheeba.chenthitta@logikcull.com. [Learn why this is important](#)

[External Email]

Thanks everyone, we're submitting one last piece of information as part of the protest.

We found Modus pricing information online, and are submitting a cost analysis of their pricing based on the City of San Jose's actual usage. It's a pretty drastic difference with Logikcull pricing (our pricing is all inclusive of processing, hosting, unlimited productions, unlimited user licenses, unlimited trainings and unlimited in app chat support:)

	Modus Discovery Unit Cost (based on actual pricing for a government customer as of April 2022)	San Jose volume over the last year	Price	Yearly Cost with Modus Discovery
Processing				
Data Processing/OCR	\$10/100 documents	166,342 documents	\$16,634.20	\$16,634.20
Data Processing/metadata extraction	\$40/100 documents	166,342 documents	\$66,536.80	\$66,536.80
Hosting				
Active Data Hosting, per GB per month	\$7/GB/month	286 GB	\$2,002	\$24,024
Database management	\$150/hour	12 hours (assuming 1 hour/month)	\$1,800	\$1,800
Archive Data Hosting, per GB per month	\$3.50/GB/month	101 GB	\$353.50	\$4,242.50
Production				
Conversion of grey scale files to tiff, jpeg or pdf	\$10/100 images	833,216 pages	\$83,321.60	\$83,321.60
Bates stamping (does not include additional stamping, like confidentiality)	\$10/100 images	833,216 pages	\$83,321.60	\$83,321.60
Creating a loadfile, cost per loadfile	\$500/loadfile	230 actual downloads, assuming 1/4 had load files	\$28,750	\$28,750
Support/Additional Fees				
Training (does not include fees for asking questions after the official training is over)	\$150/hour	2 hours (based on RFP request)	\$300	\$300
User License per month	\$130/license/month	30	\$3,900	\$46,800
			TOTAL MODUS COST FOR 1 YEAR BASED ON ACTUAL SAN JOSE DATA	\$355,730.70
			LOGIKCULL ANNUAL COST:	\$91,200

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I'm attaching an Excel version as well in case you want to update any of the cells with your own data information.

Best,

Sheeba

Appendix A



Finance Department

PURCHASING DIVISION

June 14, 2022

Sheeba S. Chenthitta
Logikcull
111 Sutter Street
San Francisco, CA 94104

Subject: City of San José (City) Request for Quote (RFQ) PUR-RFQ2022.02.10032 for eDiscovery Software

Reference: Protest letter from Sheeba S. Chenthitta of Logikcull dated June 5, 2022 and follow-up e-mail dated June 7, 2022

Dear Ms. Chenthitta:

This letter is in response to your referenced letter (and follow-up email) protesting the City's Notice of Intended Award for eDiscovery Software. In your protest letter, you raise concerns regarding the City's scoring in five areas of the RFQ: (1) General Requirements, (2) Experience and Qualifications, (3) Project Approach/Schedule, (4) Technical Capabilities, and (5) Cost Proposal. Based on my review, please find my comments below:

(1) General Requirements

You state that you believe evaluators missed several key pieces of information and do not accurately reflect your performance against the requirements specified in the RFQ. The General Requirements evaluation criterion is scored based on the vendor's general ability to follow the RFQ instructions (including clarity, formatting, organization, etc.) as well as if the vendor took any exceptions to the City's standard terms and conditions. Scoring was based on a scale from 0 to 5, with 0 indicating that the vendor did not provide a response, 3 meaning average, and 5 meaning outstanding. Scores were later converted to the evaluation criteria weightings set forth in Section 6.L of the RFQ. Numerous formatting errors and inconsistencies were found in your submittal making it difficult for evaluators to follow your response. As one example, Section 3 (Technical Capabilities) of the Respondent Questionnaire was mislabeled as Section 2 (the same as Project Approach and Implementation Schedule) and consequently all subsequent subsections were labeled in error.

In your protest letter, you provided a list of how you meet the City's specified requirements. The general ability to meet the City's requirements is a pass/fail assessment as stated in Section 6.B of the RFQ. Vendors who do not pass the responsiveness check are disqualified from further consideration and do not advance for further evaluation. Logikcull was found responsive and advanced to evaluation, indicating that the City agrees you meet the specified

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Communication Re: PUR-RFQ2022.02.10032 for eDiscovery Software
June 14, 2022
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requirements. However, simply meeting a requirement does not automatically qualify you to receive maximum scores. As stated in the RFQ, award for this RFQ is based on the City's evaluation of the "best value" solution. All information submitted by Logikcull during the RFQ process was taken into consideration by the evaluation team during the scoring process. The City cannot consider additional information submitted after the RFQ has concluded.

(2) Experience and Qualifications

Your comments regarding the Experience and Qualifications criterion appear to focus on providing additional information regarding Logikcull and its credentials. Again, the City is unable to accept additional information after the fact. If you submitted this information during the RFQ process, it was taken into consideration by the evaluation team during scoring.

(3) Project Approach/Schedule

For this criterion, you state "we believe that we received a low score because our answer in the RFP wasn't placed at the top line of the response document." It is unclear what you mean by "at the top line of the response document" but evaluators were unable to locate any response to Section 2 (Project Approach and Implementation Schedule) anywhere in your submitted Respondent Questionnaire. While you provided additional information and explanation in your protest letter, it was not included in your submitted Respondent Questionnaire. Evaluators cannot score what is not provided, and the City cannot accept additional information after the RFQ deadline.

(4) Technical Capabilities

With regard to the Technical Capabilities criterion, you stated that you believe your score was too low given that you only don't support one preferred request. This criterion was scored based on your responses provided in Form 3 – Respondent Questionnaire, as well as your response to Form 5 – Features and Functionalities Questionnaire. Evaluation scoring is an assessment of "best value," not binary (i.e., pass/fail), and is based on a variety of factors, including, but not limited to, design, quality, features, and performance. Simply meeting a requirement does not mean you will automatically receive a maximum score. The evaluation panel evaluated your responses and scored based on the information provided in your RFQ proposal. The City cannot consider additional information submitted after the RFQ deadline.

(5) Cost Proposal

Cost is a qualitative assignment of points based your total base bid versus the lowest total base bid amount. In reviewing your cost submittals, your total base bid was \$150,000 in your original response and \$456,000 in your BAFO response, an increase of over 300%. This moved you from being the lowest priced vendor to the highest priced vendor which resulted in the loss of cost points between your original submittal and your BAFO response.

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Communication Re: PUR-RFQ2022.02.10032 for eDiscovery Software
June 14, 2022
Page 3

You further express concerns that the awarded vendor will not adhere to their submitted cost proposal and went on to provide additional cost analysis based on what the vendor publishes on their website in a follow-up email. The City does not consider what a vendor publishes on their website nor outside information regarding vendor costs because the basis of cost for cost point allocation and the resulting agreement is the vendor's submitted cost (or BAFO cost) proposal form(s). The awarded vendor will be required to (1) adhere to their submitted costs which will be included in the resulting agreement, (2) meet the Scope requirements as specified in the RFQ, and (3) comply with all other requirements specified in the Notice of Intended Award and RFQ. In the event the highest ranked vendor does not, the City reserves the right to terminate negotiations with them and begin negotiations with the next ranked vendor.

After careful review, I am upholding staff's recommendation of award to Modus eDiscovery, as the "best value" bidder per the criteria set forth in the RFQ. It is my finding that the City's procurement processes were properly followed and that the RFQ was conducted in a fair and impartial manner.

This item is scheduled to be heard at the City Council meeting on June 28, 2022. You may appeal this decision to the San José City Council by filing a written appeal with the City Clerk within 10 calendar days of the date of this response pursuant to [San José Municipal Code Section 4.12.460](#).

Thank you for your interest and participation in this process.

Sincerely,

 Digitally signed by Jennifer Cheng
DN: cn=Jennifer Cheng, o=City of
San Jose, ou,
email=jennifer.cheng@sjosoca.
gov, c=US
Date: 2022.06.14 13:23:56 -0700

Jennifer Cheng
Deputy Director, Finance