

COUNCIL AGENDA: 6/28/2022

FILE: 22-1040

ITEM: 3.5 (RENUMBERED FROM 2.16)

REQUEST FOR QUOTATION FOR eDISCOVERY SOFTWARE PROTEST APPEAL HEARING

San José City Council

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June 28, 2022



PROCUREMENT PROTEST OVERVIEW

- What is a protest?
- Why do we have the protest process?
- When must the protest be submitted?
- How is a protest evaluated and by whom?



BACKGROUND ON eDISCOVERY SOFTWARE

- eDiscovery software provides document repository and document management, used in [litigation](#) and [public records](#) act requests.
 - Document review
 - Processing
 - Tagging
 - Production
 - Reporting
 - Redaction
 - Case management
 - Tracking
- The City Attorney's Office has used an eDiscovery solution from Logik Systems, Inc. DBA [Logikcull](#) for the past five years. The current agreement expires June 27, 2022.



eDISCOVERY RFQ PROCESS

Overview

- In March 2022, the Finance Department released an evaluative Request for Quotation (RFQ) for eDiscovery software
- Five responsive written submissions were received prior to the submittal deadline and evaluated and scored independently by a three-member evaluation panel from the City Attorney's Office
- Four respondents were invited to participate in Oral Interviews/System Demonstrations, and Best and Final Offers (BAFO) to make clarifications and obtain final pricing
- Staff recommends award of contract to Modus eDiscovery as the highest ranked, best-value solution per the evaluation criteria set forth in the RFQ

Evaluation Methodology

- Evaluation must be based on information submitted by proposer during the procurement process, and not on information received outside or after the process.
- Based on “best value” using a variety of factors, including quality, design, features, performance
- It is within the evaluation panel's discretion to award points based on the above factors



FINAL RFQ EVALUATION SCORES

| 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 |



PROTEST FROM LOGIKCULL

- On June 5, 2022, the City received one protest letter during the protest period from the incumbent, Logikcull, and received additional information from Logikcull on June 7, 2022 as part of the protest
- In its protest, Logikcull:
 - Contended they should have been awarded more points in the categories of General Requirements, Project Approach and Technical Capabilities;
 - Submitted additional information for the above three categories as well as for Experience and Qualifications, and Cost categories; and
 - Expressed concerns of competitors not being fully transparent about their pricing model and included their own cost analysis for the awarded vendor's cost based on external information.



CITY RESPONSE TO PROTEST FROM LOGIKCULL

- The City's Chief Purchasing Officer carefully reviewed Logikcull's protest, and responded to Logikcull on June 14, 2022, upholding staff's recommendation of award to Modus eDiscovery, and included the following information:
 - An explanation of the City's scoring methodology
 - Examples from Logikcull's RFQ written response that contributed to final scores received
 - * Logikcull's RFQ written proposal included numerous formatting errors that made evaluation difficult, resulting into lower points awarded
 - * Evaluators determined Logikcull did not provide a response on Project Approach, resulting into lower points awarded
 - Logikcull's cost analysis for Modus eDiscovery's costs has no relevance or bearing on award as Modus will be required to adhere the costs and scope requirements pursuant to its bid submittal
 - The City's inability to consider additional information submitted after the RFQ deadline



CHIEF PURCHASING OFFICER'S FINDINGS & RECOMMENDATION

- City's procurement processes were properly followed and conducted in a fair and impartial manner
- Uphold staff's recommendation of award to Modus eDiscovery, as the "best value" bidder per the criteria set forth in the RFQ

APPEAL HEARING TO CITY COUNCIL

- Pursuant to San José Municipal Code Section 4.12.460, Logikcull may appeal this decision to City Council by filing a written appeal to City Clerk within 10 calendar days of CPO's protest response letter
- On June 21, 2022, Logikcull filed an appeal with the City Clerk, to be heard by Council today with this item
- Logikcull has 5 minutes to speak on appeal



STAFF 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.

