

STATE OF NEW YORK

JUDICIARY

—REQUEST FOR BID—

(This is not an order)
**BID MUST BE MADE ON THIS SHEET
OR AS OTHERWISE SPECIFIED**

NYS OFFICE OF COURT ADMINISTRATION
Contract & Procurement Unit
25 Beaver Street, R-829
New York, NY 10004

(Agency Name and Address)

Direct Inquiries to: Marie-Claude Ceppi
E-mails: mceppi@nycourts.gov

Bid Number: OCA/PCS-250	Commodity Group:
Opening Date: 11/20/2018 Time: 3:00 pm Issue Date: 10/29/2018	Commodity Name: ODR SYSTEM CONCEPTUAL DESIGN

Price to include delivery to (describe exact location and method of delivery) All prices to be net and inclusive of all services specified herein unless otherwise specified.

OFFICE OF GENERAL SERVICES "GENERAL SPECIFICATIONS" (DECEMBER 1998) ARE FULLY INCORPORATED HEREIN.

Agency's Specification of item(s) Required (include quantities)	Bidder's Quotation and Specific Description of Item Offered
<u>UCS ATTACHMENT I, III, and IV ATTACHED & INCORPORATED HEREIN.</u>	ALL BID RESPONSES <u>MUST</u> BE ENTERED ON THE ENCLOSED BID RESPONSE FORM UNLESS SPECIFIED OTHERWISE HEREIN.

NOTICE TO BIDDERS

Pursuant to the Rules and Regulations of the Chief Administrator for the Courts, sealed bids for furnishing the item(s) in this Request for Bid will be received at the above address. When submitting a bid, you must:

1. Complete this form in its entirety using ink or typewriter and return with all other documents.
2. Explain any deviations or qualifications if your bid deviates from the specifications. If necessary, attach a separate sheet setting forth such explanations.

3. Sign the bid. The bid must be completed in the name of the bidder (corporate or other) and must be fully and properly executed by an authorized person.
4. INDICATE THE BID NUMBER, THE BID OPENING DATE AND TIME ON THE ENVELOPE CONTAINING THE SEALED BID.
5. Mail the bid to the above agency address in sufficient time for it to be received before the specified bid opening. **LATE BIDS WILL BE REJECTED.**

BIDDER HEREBY CERTIFIES THAT THE ABOVE QUOTED (OR OTHERWISE NOTED) PRICES ARE APPLICABLE TO ALL CUSTOMERS FOR COMPARABLE QUANTITIES, QUALITY, STYLES OR SERVICES.

BIDS MUST BE SIGNED

Bidder's Firm Name:		Employer's Federal Identification Number:	
		NYS Vendor ID Number:	
Address Street	City	State	Zip
Bidder's Signature		Official Title	
Printed or Typed Copy of Signature		Area Code/ Telephone Number E-mail:	

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DOCUMENT ENCLOSURE CHECKLIST (2 pages)

_____ Exhibit A/Pricing Sheet **must be fully executed and included** in bidder's proposal. Failure to do so may disqualify bidder's response.

_____ Exhibit C/Data Security Form

The following forms must be fully executed and included in bidder's proposal. Failure to do so may disqualify bidder's response:

_____ UCS Request for Bid/Proposal Form (rfb1.frm) and complete bid response with original signature

_____ Attachment I - Standard Request for Bid Clauses & Forms

p.3 - Non-Collusive Bidding Certificate

p.4 - Corporate Acknowledgment

Attachment II - Not Applicable

_____ Attachment III - Vendor Responsibility Questionnaire

Questionnaire filed online via OSC VendRep System and certified within 6 months of the bid opening due date, **or**

Paper questionnaire

_____ Attachment IV - Procurement Lobbying forms

Disclosure of Prior Non-Responsibility Determination (UCS 420)

Affirmation of Understanding and Agreement (UCS 421)

_____ Certificates of NYS Worker's Compensation and NYS Disability Benefits Insurance, or Certificate of Attestation of Exemption. Please see paragraph "Insurance Requirements" for a list of accepted forms.

_____ Copies of bidder's certificate(s) of insurance or other adequate proof evidencing the insurance coverages required by the bid specifications

_____ Three (3) complete copies of original bid response

_____ List of references

_____ Bidder's Contact Information

_____ Signed Document Enclosure Checklist

_____ Proprietary information in separate folder from bid response, if applicable

AND

_____ Proposal Documents (see section III), including, but not limited to:

_____ Organizational Chart

_____ Detailed Resumes

_____ Description of three (3) completed projects

_____ Three (3) references

IMPORTANT:

1. All documents requiring an original signature must bear the BLUE INK signature of the same authorized individual. Signatory notarization must be that of the person whose signature is affixed to all required documents.

2. Exhibit A/Pricing Sheet and the other forms listed above must all have the SAME COMPANY NAME AND TAX ID NUMBER in order for a purchase order or contract to be approved by the NYS Comptroller.

3. Do not alter this solicitation in any manner. Any changes, deletions, or additions (including the addition of supplemental terms and conditions) to this RFB or to any exhibits or appendices to this RFB, including Exhibit A/Pricing Sheet, may result in the rejection of the bid as non-responsive.

4. Please note that the terms and conditions of this RFB will form the basis of the contract with the awarded vendor.

5. Please verify that all required documents are included before signing.

COMPANY NAME:

AUTHORIZED OFFICER'S NAME AND TITLE:

SIGNATURE: _____ DATE: _____

I. BACKGROUND

In its 2013 Report to the Chief Judge of the New York State Unified Court System (“NY UCS” or “UCS”), the Task Force to Expand Access to Civil Legal Services in New York (now known as the New York State Permanent Commission on Access to Justice, the “Permanent Commission”) recommended that NY UCS explore piloting an online dispute resolution (ODR) platform for civil court cases. NY UCS has long embraced mediation as an alternative means for resolving disputes. After consideration of the Permanent Commission’s recommendation, the Administrative Board of the Courts authorized the exploration of an ODR pilot program (the “Project”).

The NY UCS Office of Alternative Dispute Resolution and the Permanent Commission will collaborate with New York's statewide network of Judiciary-funded Community Dispute Resolution Centers (“Mediation Centers”) to develop and implement an ODR platform for small claims cases in New York City courts (“ODR System” or “System”). The ODR System will provide case filing, case management, and case resolution services. This collaboration will integrate the ODR platform with the provision of free online mediation services provided by trained volunteer mediators through the Mediation Centers. NY UCS will develop rules to implement the Project.

By use of an efficient, court-administered ODR System that utilizes automated negotiation, structured online communications and online filing, in conjunction with the services of volunteer certified mediators when requested, various types of civil matters could potentially be resolved in a fraction of the time and at a lower cost. Initially, the ODR System will be limited to small claims cases, with possible expansion to other types of civil matters after the Project has been reviewed and evaluated.

Note: Throughout this RFP, the terms, *proposer*, *bidder*, *offeror*, *vendor*, *contractor* and *applicant* are used interchangeably, as are *RFP*, *RFB*, *bid* and *solicitation*.

II. PURPOSE, SCOPE AND PROJECT OVERVIEW

Purpose

In collaboration with the Permanent Commission on Access to Justice, the New York State Unified Court System, OCA/Professional and Court Services (hereafter “OCA/PCS”) is requesting proposals from qualified offerors to provide the components for the ODR System described in this RFP.

The System components to be provided by the successful offeror shall include (1) a software solution, preferably commercial off-the-shelf (COTS) software with some modifications or customization; (2) a detailed program for training of NY UCS staff in the use and operation of the

System and related maintenance, support and services; (3) collaboration with NY UCS staff in the development of an expert system by connecting existing and future multimedia content; (4) user engagement strategies, including a user experience design intended to increase engagement and completion of the process in the ODR System; (5) an analysis regarding System outcomes; and (6) such other components as NY-UCS may deem necessary or beneficial for the development and operation of the ODR System.

NY UCS will only consider proposed solutions which are hosted on proven base systems. Beta systems will not be considered.

Scope of Work

The vendor shall:

1. provide, install, and customize the ODR System described in Exhibit D, ODR SYSTEM CONCEPTUAL DESIGN/PROGRAM REQUIREMENTS (“Design Services”);
2. provide up to thirty (30) hours of staff training (at the direction of NY-UCS) (“Initial Training”); and
3. provide, ongoing web hosting, including, but not limited to, providing and maintaining a secure server to support the ODR system, maintenance, technical support services and software updates or corrections required to keep the System operational (“Web Services”).
4. provide ongoing staff support and technical assistance to the project as needed by the UCS (“Support Services”).

(The Design Services, Initial Training, Web Services and Support Services hereinafter referred to, collectively as “Services”).

UCS seeks a website design that is both plaintiff and defendant-oriented, and unbiased as to outcomes for either side. (NY-UCS will retain full ownership and copyright of all material on the website. All data and content must be archived in both web and text format and returned to client, or, at the direction of NY-UCS, destroyed, at the termination of the awarded contract.) Attention should be given to a design that fosters initial engagement with the website and a user experience that cultivates continued engagement with the ODR System (as appropriate) until a satisfactory resolution is achieved.

Please note that NY UCS may require awarded bidder to make modifications to the scope of work based on unforeseen changes or shifts in law, regulations or UCS policy.

Project Timeline

- | | |
|--|-----------|
| a) Design Services completion date, including training of UCS staff:
after contract approval by the NYS Office of the Comptroller | 90 days |
| b) “Go live” date for ODR system | As needed |
| c) Additional Training of UCS staff, mediators, and judiciary personnel | As needed |

Bidder Qualifications

Bidder must have at least three (3) years of relevant experience in the following areas:

- a. At least three (3) years of relevant experience in the following areas: ODR system design, development training and maintenance similar in scope to the proposed ODR System.
- b. Sufficient organizational and financial capacity to develop and operate the ODR System as described, within the time frame required.

Any proposal that does not demonstrate that bidder meets the minimum qualifications by the proposal deadline may be considered non-responsive and may not be evaluated or eligible for award of any subsequent contract(s).

Subcontracting

Subcontracting and any other transfer of any duties or obligation to be performed hereunder will be permitted only with the prior written consent of UCS to the proposed subcontractors. In the event that bidder proposes to use one or more subcontractors, the specific subcontractors and the services proposed to be performed by such subcontractors, must be listed in bidder’s proposal. If a bidder that proposes to use one or more subcontractors in awarded the contract, the award will constitute the prior written approval of UCS to the subcontractors named in the bidder’s proposal.

Vendor will be the prime contractor and will be responsible for all services required by this RFB/RFP. The UCS will communicate only with Vendor and Vendor shall remain wholly liable for the performance by and payment to any such subcontractors, their employees, agents, consultants or representatives.

III. BID RESPONSE SUBMISSION

Bidder’s Contact Name and Required Information

Bidder shall designate, in its bid response, a staff member as primary contact for all questions

UCS/OCA may have regarding bidder's bid response. Bidder shall include in its bid response all forms, documents and information listed on the Document Enclosure Checklist.

Packaging, Identifying and Delivering of Bids/Proposals

Bids/Proposals must be clearly addressed and submitted to:

Marie-Claude Ceppi
Management Analyst
NYS Office of Court Administration
25 Beaver Street, R-829
New York, NY 10004

All envelopes/cartons must also be labeled with the following information on two sides:

Deliver immediately to Marie-Claude Ceppi R-829
Sealed bid - Do not open
RFB# OCA/PCS-250 - Bid opening date: November 20, 2018 at 3:00 p.m.

Failure to seal and mark the bid/proposal as prescribed may result in non-delivery and/or rejection of the bid/proposal. Please note that bids/proposals must be received by the above-named OCA-designated person by November 20, 2018 at 3:00 pm at the latest or bids will be declared late bids and they will be disqualified. It is recommended that bidders allow several extra days for shipping in order to meet the deadline.

DO NOT BIND OR STAPLE your bid response in any manner. Clips and rubber bands are the only acceptable methods of securing bid responses.

No-Bids

Bidders are requested to send a no-bid letter to OCA, Attn: Marie-Claude Ceppi, at the above address, should they decide not to answer this solicitation. The envelope shall be clearly marked in the lower left corner as follows: RFB# OCA/PCS-250. No-bid letters may be sent by email to mceppi@nycourts.gov. Please indicate in "Subject" field: RFB# OCA/PCS-250 – No-Bid.

Proposal Documents/Presentation

Narrative

In addition to all the documents listed in the Document Checklist located at page 4 above, bidders shall include a detailed narrative description addressing each of the requirements described below:

1. Bidder's proposed ODR System, including:
 - a. description of bidder's conceptual design, implementation, training and maintenance relevant to the Project description contained in Exhibit D and these RFP specifications;
 - b. description of bidder's dedicated technical and support staff available to NY UCS during business hours, and the method of communications that will be available (e.g. telephone, email, and tele/videoconferencing.) during the contract period;
 - c. description of bidder's security protocols and procedures relating to court and participant data to which it will have access to and/or store on its servers;
 - d. description of bidder's plan to work collaboratively with NY UCS to build the software solution as efficiently as possible;
 - e. explanation of whether the following technologies are available, how they might be integrated into the ODR System, including recommendations regarding suitability for small claims court cases:
 - Artificial Intelligence
 - Live Chat Capability
 - Video Capability
2. Organizational resources, qualifications and experience, including an organizational chart identifying the names and titles of the proposed Project lead and all proposed Project team members.
3. Methodology and approach, with an emphasis on relevant ODR system design, development training and maintenance experience similar in scope to the proposed ODR System.
4. Description of Bidder's training experience.
5. Detailed resumes of Project lead and all other personnel bidder proposes to perform Services; such resume for each project team member shall include past performance on similar projects and reporting relationships within the Project and certifications and licenses, if any.
6. Description of three (3) prior successfully completed projects similar in scope to the proposed ODR System.

7. Three (3) references including the company/agency name, complete address, contact name, title, telephone number and email address and description of project, for whom the bidder has provided similar services at any time during the past three (3) years. (UCS reserves the right to contact any or all references for any relevant information it deems relevant.)

Supporting Presentation(s)

The OCA/PCS may request bidder to make an oral and visual presentation(s) on an individual basis in support of its proposal.

IV. AWARD

Term of Award

A single estimated quantity term contract will be awarded for an initial term of one (1) year. OCA/PCS reserves the right to renew such contract for four (4) additional one (1) year periods (each a “Renewal Term”) upon the same terms and conditions. Note, the Project Fee shall not be payable for any Renewal Term. The subscription fee only will be subject to an increase each Renewal Term. See paragraph “Price Adjustments.”

OCA/PCS also reserves the right to extend the contract for a maximum of six (6) months upon the same terms and conditions, including pricing, as of the expiration date of the Initial Term, or any Renewal Term of the contract, as the case may be. The maximum term of the contract will be five (5) years. The initial contract, renewals and extension are subject to the approval of the NYS Attorney General and the NYS Comptroller.

Method of Award

The responsible bidder determined to be in compliance with this solicitation, with the highest total points (maximum 100 points) will be recommended for contract award. The evaluation criteria are:

1. Cost

Max. 25 points

Cost is defined as the Total-Initial Term Annual Cost to complete the project. Points will be awarded according to the following formula: $(L/R) \times 25 = \text{Points}$

L is the lowest total fee

R is any other total fee

25 is the maximum points for Cost

Example: $(\$100/\$125) \times 25 = 20$ points

2. Qualifications and Experience Max. 25 points
3. ODR System Proposal Max. 25 points
4. Methodology and Approach (including oral/visual presentations, if required by UCS)
Max. 15 points
5. Organizational and financial capacity Max. 10 points

V. BID PROCESS SPECIFICATIONS

Questions

Any and all questions bidders may have in connection with this solicitation are to be directed by email only to:

Marie Claude Ceppi
mceppi@nycourts.gov

Please indicate in "Subject" field: RFB# OCA/PCS-250 - Question(s)

The deadline to submit questions is November 7, 2018 before 5:00 pm. No questions will be entertained after this deadline. A written Questions & Answers (Q&A) listing all the questions received and their answers will be posted on the UCS website at www.nycourts.gov/admin/bids under RFB# OCA/PCS-250, and it will be sent to the bidders list.

IMPORTANT: All questions regarding this solicitation must be in writing by email and directed solely to the attention of the above designated person. Contact by any prospective bidder, or any representative thereof, with any other personnel of the UCS in connection with this RFB/RFP may violate the Procurement Lobbying Act of 2005 (see Attachment IV), will jeopardize the respective bidder's standing and may cause rejection of its proposal.

VI. PRICING AND BILLING

Pricing/Compensation

Bidders shall quote in the attached Exhibit A/Pricing Sheet:

- A. A Project Fee (to cover Design Services, Customization and Initial Training).
- B. A Monthly Subscription fee (to cover Web services, staff support and technical assistance). UCS estimates that the ODR website must have the capacity to host approximately 100 cases per month. (Note this is an estimate only. The Monthly Subscription fee shall not be subject to adjustment based on the number of cases per month.)
- C. An Hourly Training Rate for additional training, if requested by NY UCS.
- D. An Hourly Consulting Rate to be applied in the event of modifications to the scope of work requested by NY UCS; provided, any increase in the scope of work requiring more than a 10% increase in the Project Fee shall be subject to the approval of OSC.

Items C and D will not be included in the award evaluation.

Fees and rates shall be net and shall include all Services and deliverables described in these specifications, as well as all expenses. There shall be no other charge, cost, reimbursement or expense of any kind payable by UCS in connection with or arising from the performance of Services.

Pricing shall be quoted in U.S dollars only.

Price Adjustments – Subscription fee only

Pricing shall be subject to increase as of the commencement date of each Renewal Term by the percentage equal to the lesser of: (i) the increase, if any, in the Consumer Price Index for All Urban Consumer - New York-Northern NJ - Long Island - NY-NJ-CT-PA (Index 1982-1984 - 100) - NSA (Not Seasonally Adjusted), reference base ("CPI") as of the third month prior to the commencement date of each such Renewal Term, over the CPI as of the third month prior to the commencement date of the immediately prior term of the Agreement, or (ii) five percent (5%). Pricing shall thereafter remain unchanged for the balance of each such term, and shall further remain unchanged during any extension term of the Agreement.

Billing/Payment

1. The Project Fee shall be payable as follows:
 - a. Fifty percent (50%) payable thirty (30) days following the completion and acceptance by NY UCS of the Design Services for the ODR system.

- b. Twenty-five percent (25%) payable thirty (30) days following ODR System “go live” date to ensure it is operating substantially as required.
 - c. Twenty-five percent (25%) payable thirty (30) days following satisfactory completion of Initial Training.
2. Monthly Subscription fees shall be payable on a monthly basis in arrears, and shall be due and owing commencing as of the first day of the first full month after the ODR System has “gone live”.
3. Vendor shall submit true and accurate invoices on a monthly basis to: OCA Division of Professional and Court Services, Attn: Diana Colón, Assistant Deputy Counsel, by email at dcolon@nycourts.gov, or such other person or email address as UCS/OCA shall designate. Payment shall be made monthly in arrears and shall be made within thirty (30) days of submission by Vendor and approval by UCS of invoices satisfactory to UCS and OSC.
4. Invoices must itemize:
 - materials and equipment, and their cost, and percentage of project completed.
 - labor costs; number of hours and hourly labor rate.
 - training cost; number of hours and hourly training rate.
 - Subscription cost.

Itemized Cost Proposal

OCA/PCS reserves the right to request an itemized cost proposal from the awarded vendor.

VII. The RFB/RFP PROCESS: GENERAL SPECIFICATIONS

Note to Bidders

1. Attachment I - Standard Request for Bid Clauses & Forms and Attachment IV - Procurement Lobbying Law required forms

In addition to such other specifications and criteria as are presented herein, the NYS Unified Court System Attachment I - Standard Request for Bid Clauses & Forms , and Attachment IV - Disclosure of Prior Non-Responsibility Determination (UCS 420) and Affirmation of Understanding and Agreement (UCS 421) pursuant to the Procurement Lobbying Act, which must be downloaded or printed from the UCS Contract & Procurement website under "Addenda" for the appropriate solicitation, are incorporated and made a part of this solicitation.

2. Attachment III - Vendor Responsibility Questionnaire

The NYS Unified Court System (UCS) is required to conduct a review of a prospective contractor to provide reasonable assurances that the vendor is responsible. The required Vendor Responsibility Questionnaire is designed to provide information to assist UCS in assessing a vendor's responsibility prior to entering into a contract with the vendor. Vendor responsibility is determined by a review of each prospective contractor's legal authority to do business in New York State, business integrity, financial and organizational resources, and performance history (including references).

The UCS recommends that vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep System. However, vendors may choose to complete a paper questionnaire and submit it with their proposal.

Online Questionnaire: To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at <http://www.osc.state.ny.us/vendrep/index.htm> or go directly to the VendRep System online at <https://portal.osc.state.ny.us/Enrollment/login>. Vendors must provide their New York State Vendor Identification Number when enrolling (see paragraph headed 'New York State Vendor File Registration' for instructions on obtaining a Vendor Identification Number.) For VendRep System assistance, contact the Office of the State Comptroller's Help Desk at 866-370-4672 or 518-408-4672 or by email at ITServiceDesk@osc.state.ny.us.

Bidders who file the Vendor Responsibility Questionnaire online via the OSC VendRep System are requested to checkmark the appropriate box on the Document Enclosure Checklist. Please note that online submissions must be certified and dated/updated not more than six (6) months prior to the bid opening date of this RFB/RFP. Bidders' authorized signature of the RFB/RFP form will serve as confirmation that bidders have knowingly filed their questionnaire online if the paper questionnaire is not included with the bidder's submission.

Paper Questionnaire: Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website www.osc.state.ny.us/vendrep/forms_vendor.htm or may contact the UCS or the Office of the State Comptroller's Help Desk for a copy of the paper form.

3. New York State Vendor File Registration

Prior to being awarded a contract pursuant to this solicitation, the bidder(s) must be registered in the New York State Vendor File (Vendor File) administered by the OSC. This is a central registry for all vendors who do business with New York State agencies and the registration must be initiated by a State agency. Following the initial registration, a unique New York State ten-digit vendor identification number (Vendor ID) will be assigned to vendors for usage on all future transactions with New York State. Additionally, the Vendor File enables vendors to use the Vendor Self-Service application to manage certain vendor information in one central location for all transactions related to the State of New York.

If the bidder is already registered in the Vendor File, the vendor must enter the vendor's ten-digit Vendor ID on the first page of this bid document.

If the bidder is not currently registered in the Vendor File, upon award of a contract the Bidder must complete the OSC Substitute W-9 Form (http://www.osc.state.ny.us/vendors/forms/ac3237s_fe.pdf) and submit the form to UCS. The UCS will initiate the vendor registration process for the Vendor. Once the process is initiated, Vendor will receive an e-mail identifying their unique ten-digit Vendor ID and instructions on how to enroll in the online Vendor Self-Service application. For more information on the Vendor File please visit the following website: http://www.osc.state.ny.us/vendor_management/.

Online RFB/RFP Package: Disclaimer

Bidders accessing any UCS/UCS/OCA solicitations and related documents from the New York State UCS website www.nycourts.gov/admin/bids under "Current Solicitations" shall remain solely and wholly responsible for reviewing the respective solicitation & bid documents on the internet regularly, up to the scheduled date and time of the bid/proposal due date, to ensure their knowledge of any amendments, addenda, modifications or other information affecting the solicitation or bid documents in question.

Bid Response/Proposal: Original and Copies

Bidders shall submit all the following required original RFB/RFP documents: Bid/Proposal; Executed RFB/RFP Form; Attachment I - pages 3, 4, of 10; Attachment III - Vendor Responsibility Questionnaire (questionnaire may be filed electronically with OSC); Attachment IV - Disclosure of Prior Non-Responsibility Determinations UCS 420 and Affirmation of

Understanding and Agreement UCS 421; proof of Workers' Compensation and Disability Benefits insurance coverage (See "Insurance Requirements"); and any other required documentation, brochures, etc. listed on the Document Enclosure Checklist. Complete the paperwork on the forms provided with this solicitation unless otherwise requested. Do not retype or amend any portion of this solicitation. Failure to provide all original documents and the requested number of copies may result in disqualification of a bidder's response.

NYS OGS General Specifications

New York State Office of General Services (NYSOGS) General Specifications (May 2015) are incorporated herein by reference, except to the extent any provision thereof is not applicable to UCS. Any reference in the NYSOGS General Specifications to 'Commissioner' shall be deemed to refer to the Chief Administrator of the Courts or the designee of the Chief Administrator. In the event of any conflict or express or implied ambiguity between this solicitation document, including attachments hereto, and the NYSOGS General Specifications, this solicitation document shall take precedence. The NYSOGS General Specifications are available at: <http://www.ogs.ny.gov/purchase/spg/pdfdocs/CL815.pdf>.

Binding Nature of Bid/Proposal on Bidders

All bids/proposals shall remain binding on bidders until such time as UCS/OCA provides written notification of its intent to award the contract to a specific bidder or until the bidder withdraws its bid/proposal in writing, whichever occurs first.

Estimated Quantities

Any quantities specified in this solicitation constitute estimates only, and accordingly no commitment or guarantee to reach any specified volume of business is made or implied.

Compliance with Laws

Vendor(s) must comply with all applicable federal, state and local laws, rules and regulations, including but not limited to, fire, health and safety codes, prior to and during the provision of all services under the contract resulting from this RFB/RFP.

Independent Contractor Status

It is expressly understood and agreed that the Vendor's status shall be that of an independent provider of services and that no officer, employee, servant or subcontractor of the contractor is an employee of the UCS, OCA or State of New York. The Vendor shall be solely responsible

for the work, assignment, compensation, benefits and personal conduct and standards of all such persons assigned to the provision of services. Nothing herein shall be construed to impose any liability or duty on the UCS, OCA or State of New York to persons, firms, consultants or corporations employed or engaged by the Vendor either directly or indirectly in any capacity whatsoever, nor shall the UCS, OCA or State of New York be liable for any acts, omissions, liabilities, obligations or taxes of any nature including, but not limited to, unemployment and Workers' Compensation insurance of the Vendor or any of its employees or subcontractors.

Rejected and Unacceptable Bids/Proposals

UCS reserves the right to reject any and all proposals or bids submitted in response to this solicitation. In addition, UCS may reject any bids/proposals from any bidders who are in arrears to the State of New York upon any debt or performance of any contract; or who have previously defaulted on any contractual obligations, (as contracting party, surety or otherwise), or on any obligation to the State of New York; or who have been declared not responsible or disqualified by any agency of the State of New York, who have any proceeding pending against them relating to the responsibility or qualification of the bidders to receive public contracts, whose proposal is incomplete or otherwise non-responsive in any material respect, or who are found to be non-responsible based on any of the criteria specified in the section headed 'Responsible Bidder'.

UCS also reserves the right to reject any bidder: (i) whose facilities and/or resources are, in the opinion of OCA, inadequate, too remote from the UCS locations to render services in a timely manner in accordance with all requirements of this solicitation; (ii) who does not provide references in accordance with the bid specifications, or whose references report significant failure to comply with specifications; or (iii) who are otherwise, in the opinion of OCA, unable to meet specifications.

Responsible Bidder

A bidder shall be defined as "responsible" in accordance with, but not limited to, references, past performance history, financial stability, the criteria set forth in paragraph 2 of the General Specifications (Attachment III-Vendor Responsibility Questionnaire), and the criteria set forth in the paragraph headed "Rejected and Unacceptable Bids/Proposals" as well as any other criteria necessary and reasonable to establish the bidder's responsibility.

Clarification/Correction of Bids/Proposals

In addition to any rights articulated elsewhere in this solicitation, UCS reserves the right to require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a bidder's proposal and/or to determine a bidder's compliance with the requirements of this solicitation. This clarifying information, if required in writing by UCS, must be submitted by the

bidder, in accordance with formats as prescribed by UCS at the time said information is requested and, if received by the due date set forth in UCS's request for clarification, shall be included as a formal part of the bidder's proposal. Clarifying information, if any, whether provided orally, visually or in writing will be considered in the evaluation process. Failure to provide required information by its associated due date may result in rejection of the bidder's proposal. Nothing in the foregoing shall mean or imply that it is obligatory upon UCS to seek or allow clarifications or corrections as provided for herein.

References

Each bidder must provide at least three (3) references, other than UCS, including the company/agency name, complete address, contact name, title, telephone number and email address, for whom the bidder has provided similar services at any time during the past three (3) years.

Indemnity

A. Vendor shall indemnify, defend and hold harmless UCS, its officers and employees from and against any and all claims, causes of action, damages, costs, liabilities and expenses of any kind (including reasonable attorney's fees and the cost of legal defense) which UCS may incur by reason of: (i) Vendor's breach of any term, provision, covenant, representation or warranty contained in the contract awarded as a result of this bid; (ii) any act, omission, negligence or intentional misconduct of Vendor or its employees, subcontractors, agents, volunteers or of other persons under its direction and control; (iii) Vendor's performance or failure to perform under the contract; and (iv) enforcement by UCS of the awarded contract or any provisions thereof.

B. Vendor shall further defend, indemnify and save UCS its officers and employees wholly harmless from all costs, liability, and damages, including attorney fees incurred by UCS as a result of claims by a third party that UCS use of such data, information, and software infringes the rights of such third party. UCS shall promptly notify vendor in the event UCS learns of such claim by a third party.

Unified Court System Self-Insurance

UCS, a New York State governmental entity, is self-retained for risk of loss and liability.

Insurance Requirements

Vendor shall be required to maintain during the term of the contract, including any renewal terms, at their own cost and expense:

1. Workers' compensation and disability benefit insurance coverage as required under NYS law. Each vendor must provide with its proposal proof of such workers' compensation and disability benefits insurance coverage or, if it is legally exempt from such coverage, proof of exemption. Vendor must obtain the appropriate Workers Compensation Board forms from its insurance carrier or licensed agent, or must follow the procedures set forth by the Workers' Compensation Board for obtaining an exemption from coverage. See Workers' Compensation Board website at <http://www.wcb.ny.gov> under "Forms" for a manual listing required forms and procedures. Any questions regarding workers' compensation coverage requirements or debarments should be directed to:

Workers' Compensation Board
Bureau of Compliance
(518) 462-8882
(866) 298-7830

Only the following forms will be accepted:

Proof of Workers' Compensation Coverage

- Form C-105.2 - Certificate of Workers' Compensation Insurance issued by private insurance carriers; or
- Form U-26.3 issued by the State Insurance Fund; or
- Form SI-12 - Certificate of Workers' Compensation Self-Insurance; or
- Form GSI-105.2 - Certificate of Participation in Workers' Compensation Group Self-Insurance; or
- Form CE-200 - Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage.
-

Proof of Disability Benefits Coverage

- Form DB-120.1 - Certificate of Disability Benefits Insurance, or
- Form DB-155 - Certificate of Disability Benefits Self-Insurance; or
- Form CE-200 - Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage.

On forms that have a space for a certificate holder to be listed, the carrier must enter:

NYS Unified Court System
Office of Court Administration
25 Beaver Street, Room 850
New York, NY 10004

The insurance carrier will notify the certificate holder if a policy is canceled.

Please note: An ACORD Certificate of Insurance is not acceptable proof of NYS workers' compensation or disability benefits insurance coverage.

For additional information regarding worker's compensation and disability benefits requirements, please refer to the New York State Workers' Compensation Board website at: <http://www.wcb.ny.gov> under "Employers/Businesses."

2. Commercial General Liability Insurance (bodily injury and property damage on an occurrence basis), contractual and products/completed operations liability coverage, and auto liability with minimum limits as follows:

Bodily Injury and Property Damage	\$1 million, per occurrence, \$2million, aggregate
Personal Injury and Advertising:	\$1 million aggregate
Contractual and Products/ Completed Operations	\$2 million aggregate
Auto Liability, Combined single limits	\$1 million

Commercial General Liability insurance coverage shall be obtained from commercial insurance carriers licensed to do business in the State of New York.

Confidentiality

Bidder acknowledges that any and all information, records, files, documents or reports contained in any media format provided to the bidder by the court, Plaintiffs and Defendants using the ODR System, or which may be otherwise encountered by bidder shall be considered extremely confidential and shall be handled accordingly at all times. Neither the bidder nor any of its employees, servants, Contractors, agents or volunteers shall at any time be permitted to utilize such confidential information for any purpose outside the scope of any resulting agreement without the express prior written authorization of UCS. Any breach of this confidentiality by the bidder or by any of its employees, servants, subcontractors, agents, or volunteers may result in the immediate termination of any resulting agreement by UCS and may subject the bidder to further penalties.

Vendor shall use, and require its employees and authorized agents to use, at least the degree of care a reasonably prudent person would use to protect and prevent improper access to the records.

Confidential/Proprietary Information

If applicable, bidders should specifically identify those portions of the proposal deemed to contain confidential or proprietary information or trade secrets, and must provide justification why such material, upon request, should not be disclosed to parties other than UCS. Bidders are advised that any material deemed confidential by bidder may still be subject to disclosure in

connection with any governmental or judicial proceeding or inquiry or as may be required by applicable law, including but not limited to Article 6 of the New York Public Officers Law (Freedom of Information Law). Such confidential/proprietary information must be easily separable from the non-confidential sections of the proposal.

Financial Stability

Upon request by UCS, bidder shall provide its audited financial statements prepared in accordance with GAAP-Generally Accepted Accounting Principles for the past three (3) consecutive years and a copy of its last three (3) annual reports.

Termination

Early termination of the contract for cause may result in, among other consequences, all remedies available to UCS and New York State, the Vendor both being declared non-responsible by the UCS/UCS/OCA, pursuant to the UCS and Office of the State Comptroller's guidelines on vendor responsibility and in the contractor's removal from the UCS/UCS/OCA's bidders list for future solicitations.

Implied Requirements

Products and services that are not specifically requested in this solicitation, but which are necessary to provide the functional capabilities proposed by the bidder, shall be included in the offer except as specified herein.

Silence of the Specifications

The apparent silence of the specifications contained as part of this package as to any detail or to the apparent omission of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practices are to prevail. All interpretations of these specifications shall be made on the basis of this statement.

Work for Hire

If awarded contractor produces any materials for UCS pursuant to this RFB/RFP, such work shall be deemed "work for hire" and shall be governed by the terms of Exhibit B annexed hereto.

EXHIBIT A/PRICING SHEET

(See Article VI, Pricing and Billing, for detailed explanation and content of fees.)

			Initial Term Annual Cost
A. Project Fee			A. \$ _____
B. Subscription fee (per 100 cases, per month)	\$ _____/month	X 12 mo.	B. \$ _____
Total initial term Annual Cost (sum A. + B.)			Sum A. + B.) \$ _____

For information only – Hourly Training and Consultant rates will not be included in award evaluation.

Hourly Training Rate:	\$ _____
Hourly Consultant Rate:	\$ _____

COMPANY NAME: _____

NAME AND TITLE: _____

SIGNATURE: _____ DATE: _____

EXHIBIT B/Terms and Conditions Applicable to Materials Produced Under the Agreement

1. Contractor acknowledges and agrees that UCS has ordered and/or specially commissioned the services, deliverables and materials that Contractor is required to produce pursuant to this Agreement (the "Work"), whether in written form, on tape, computer-readable media or other tangible form. Except as otherwise specified in this Exhibit B, Contractor agrees that (i) UCS shall be the sole owner of the Work and (ii) the Work shall be considered a "work made for hire" as that term is used under federal and state law. UCS or its authorized designee shall have all right, title and interest of every kind and nature, whether now known or hereafter devised and including, without limitation, all copyrights and renewals and extensions thereof, in and to the Work, including without limitation any editions and versions thereof, without payment of any royalty or other compensation. Without limiting the foregoing, and except as otherwise specified in this Exhibit B, if all or any part of the Work is not so deemed a "work made for hire," Contractor hereby irrevocably grants, assigns, transfers and sets over to UCS or its authorized designee all rights of any kind and nature in and to the Work that he/she/it may possess or come to possess, including without limitation all copyrights and renewals and extensions thereof, without payment of any royalty or other compensation. Contractor agrees to execute and deliver to UCS any assignments and other documents requested by UCS confirming the assignment to UCS or its authorized designee of all rights in the Work and to fully cooperate with UCS in registering and protecting UCS's rights to and interests in the Work. Upon request of UCS during any stage of thereof, Contractor shall deliver all such Work to UCS.
2. Contractor represents and warrants that the Work shall be created solely by Contractor, be original, and does not infringe upon any the copyright, trademark, patent or other proprietary rights of any third party, including without limitation the right to use or display the name, face or likeness of any person. Furthermore, Contractor represents and warrants that the Work and any other materials used in connection with this Agreement shall not include or incorporate in any way the work or materials of any third party with rights to such work or materials, or the name, face or likeness of any person, unless Contractor has (i) advised UCS of this and (ii) the appropriate written authorizations, releases, licenses or other permits to allow UCS and Contractor to use the Work and any other materials used in connection with this Agreement without violating such rights have been obtained and delivered to UCS. The form of such authorizations and other documents is subject to UCS's approval.
3. All rights granted to UCS hereunder are irrevocable and shall vest and remain perpetually vested in UCS and UCS's successors and assigns without payment of any royalty or other compensation, whether this Agreement expires or is terminated, and shall not be subject to rescission, cancellation or termination by Contractor for any cause whatsoever.
4. If applicable, Contractor shall own and retain all proprietary rights to any materials produced by Contractor prior to the Effective Date, or not as a result of this Agreement ("Contractor's Property"), even if such materials are incorporated into the Work. If any such materials are incorporated into the Work, Contractor hereby licenses to UCS or its authorized designee, in perpetuity, at no additional cost or expense, the non-exclusive, irrevocable

worldwide rights to reproduce, display and otherwise use Contractor's Property as part of the Work.

5. If master tapes are created in the production of the Work, upon receipt of final payment for the Work, Contractor will provide these to UCS, except for the master tapes to Contractor's Property (if applicable).

6. If requested by UCS, Contractor shall include in the Work a copyright notice in the following form: "Copyright (or ©) [year] New York State Unified Court System". All rights reserved." If applicable, the notice shall be computer-readable and clearly visible to viewers for at least three seconds.

7. Contractor shall indemnify, defend and hold UCS, its administrative officers, directors, employees and authorized agents harmless from and against all claims, costs, liability and damages, including reasonable attorneys' fees and disbursements (i) resulting from the Contractor's breach of representation or warranty made herein or (ii) arising in connection with an allegation that UCS's use of the Work (if any) or any other deliverable, if any, infringes any patent, trade secret, copyright or any other proprietary right, including without limitation the rights to use or display a person's name, face or likeness.

8. This Exhibit B shall survive expiration or termination of this Agreement.

**EXHIBIT C/New York State Unified Court System - Data Security Form
(8/30/18) (5 pages)**

The NYS

Business/Agency name: _____ (hereinafter called
“Vendor”)

Vendor security at a minimum includes and must maintain industry standards. Generally recognized industry standards include but are not limited to the current standards and benchmarks set forth and maintained by the:

- a. Center for Internet Security - see www.cisecurity.org
- b. Payment Card Industry/Data Security Standards (PCI/DSS) – see www.pcisecuritystandards.org
- c. National Institute for Standards and Technology - see csrc.nist.gov
- d. Federal Information Security Modernization Act (FISMA) - see www.dhs.gov/fisma
- e. ISO/IEC 27000-series - see www.iso27001security.com
- f. Organization for the Advancement of Structured Information Standards (OASIS)- see www.oasis-open.org

Please answer the following questions regarding security:

A. Physical Security

- 1) Physical protection measures must conform to industry standards. Vendor agrees that all Unified Court System (UCS) data will be stored, processed, and maintained solely on designated target servers in designated protected data center. Please provide specific details about the physical data center provisions in place (i.e. video surveillance, physical security, etc.).
- 2) Please provide details about how employee access to data center is logged:
- 3) Please describe what computing devices this data will reside on. What are the restrictions in place to ensure data is not stored on laptops or transferred to any type of portable storage media?

- 4) Where will desktop PCs be located? If laptops must be used, how can you provide assurance of their location? Will laptop(s) be used on secure premises? Please elaborate.

B. Technical Security Controls

- 5) Vendor agrees to maintain network security at all times that – at a minimum – includes: network firewall provisioning, intrusion detection, and conforms to industry standards and best practices. Please provide a description of your Network Security infrastructure & processes (firewalls/firewall type, anti-virus, IDS scanning/reporting, IPS approach/type, etc.):

- 6) Custom Application Security - Vendor agrees at all times to provide, maintain and support its custom software and subsequent updates, upgrades, and bug fixes such that the software is, and remains secure from those vulnerabilities.

a) Briefly describe any custom applications being used. If using custom software indicate how it complies with SANS safe programming practices. If you are not using a custom application, please state no custom application is being used.

b) What is your patching/update process for this custom software?

- 7) Vendor (i.e., “off-the-shelf”) Software Application Security - Vendor agrees at all times to provide, maintain and support its vendor-based software and subsequent updates, upgrades, and patching such that the software is, and remains secure from vulnerabilities. What software is being used for data analysis (i.e. Excel, Access, MySQL DB, SAS, SPSS) and what is your process for keeping it up to date.

- 8) What version of server/system OS will be used and briefly describe environment (i.e. Windows Server 2012, VMWare, Hyper-V, SSL VPN, etc.)?

C. Data Security

- 9) 3rd Party Penetration testing. Vendor agrees to have annual independent 3rd party penetration testing & vulnerability assessment. Assessment should be shared with UCS.

Please provide a date and brief recap of findings from your organization's last security audit:

- 10) Will data be accessed from the internet? If so, please provide details on Vendor's organization penetration testing procedures and policy.

- 11) Right to Audit - UCS or an appointed audit firm (Auditors) has the right to audit the Vendor and the Vendor's sub-contractors or affiliates that provide a service for the processing, transport or storage of UCS data. UCS will announce their intent to audit Vendor by providing at a minimum two weeks (10 business days) notice to Vendor. This notice will go to the Vendor representative that this contract is executed with.

Please provide contact details for all such requests:

- 12) Vendor agrees to encrypt all data at rest and in transit using a modern encryption technology that is at least compliant to Federal Information Processing Standards (FIPS 140-2). Any transmitted data must use Secure File Transfer Protocol (SFTP), or any other method supporting SSL/TLS encryption. Data must not be emailed or transmitted using any unencrypted method.

Briefly explain how data will be made available:

- 13) Data Access. Vendor agrees to perform proper background checks and screening on individuals authorized to access OCA data. OCA must be provided a detailed list of individuals or providers who have access to court data. OCA also requests an updated list of any new individuals given access to UCS data.

Please list users or organizations that will have access to UCS data:

- 14) Vendor agrees to utilize some form of identity management on access of data provided by UCS. If requested, Vendor agrees to provide OCA with date/time stamps, login ID of users, and any other pertinent log information of accessed data.

Briefly describe how access to data will be logged:

- 15) Data Re-Use. Vendor agrees that any and all data exchanged shall be used expressly and solely for the purposes enumerated in the current agreement and this addendum. Data shall not be distributed, repurposed or shared across other applications, environments, or business units of Company X. No data may be shared with a 3rd party without UCS agreement.

a) Please provide us with a contact to address any concerns UCS may have with any potential violations:

b) Briefly describe any preventative measures in place to ensure data is isolated and not repurposed in any way:

- 16) End of Agreement Data Handling – Vendor agrees that upon termination of this Agreement it shall erase, destroy, and render unrecoverable all UCS data and certify in writing that these actions have been completed within 30 days of the termination of this Agreement or within 7 days of the request of an agent of UCS, whichever shall come first.

a) Please describe how all server locations will be identified, as well as any computing devices UCS data may have resided on:

b) What is the plan to remove and destroy data from all these locations?

c) What software will be used for media sanitation that adheres to industry standard guidelines?

OCA/PCS-250

BID OPENING DATE: November 20, 2018

ODR SYSTEM CONCEPTUAL DESIGN

3:00 PM

17) Security Breach Notification – Please let us know who in your organization will inform us of any breaches. Certify that this notification will be done within 24 hours of discovery.

EXHIBIT D/ODR SYTEM CONCEPTUAL DESIGN/PROGRAM REQUIREMENTS

Terminology

- **Small Claims Case:** A case filed by a claimant (plaintiff) against a defendant in the Small Claims Part of the New York City Civil Court that is for a monetary judgment not to exceed \$5,000.
- **Claimant or Plaintiff:** The person who brings a suit (files a claim) in Small Claims Court.
- **Defendant:** The person being sued.
- **Eligible Small Claims Case:** A Small Claims Case where a claimant is suing a defendant for a monetary judgment up to \$5,000 on a claim related to goods and/or services.
- **Multimedia content:** This includes, but is not limited to, the pictures, audio, video files, written content, decision-trees (topical flows/maps), character-driven animation, and interactive web-based tools that will be hosted in a content management system for the Stage 1 expert system (See Exhibit D, “Expert System” for a detailed description).
- **Character-driven animation:** Animation for content that focuses on case studies and story examples, combined with "explainer" videos and more-text heavy animation, as well as potential "talking head" interviews and documentary-style footage, with strong titling and motion graphics. Much of the content should include a "silent play" option for distribution and sharing on social media. Other online media could include interactive components like surveys, to deliver content tailored to users, and quizzes. Other content could include audio material (i.e. podcast-style interviews) and infographics.
- **Guided pathways:** Users engage with dispute “streams” that provide the user with questions that, when answered, result in the user being taken down a “path” specific to their dispute. The support and education provided will help users understand their situation and work towards an informed and effective solution. “Streams” are populated with answers/questions that can be presented in the form of decision-trees (maps), or some other similarly logical progressive format.

Overview of the Conceptual Design for the ODR System

The ODR System will be used in a yearlong pilot at the New York City Civil Court, Small Claims Part in NY County, with the goal to expand thereafter throughout the State. The pilot will be mandatory and limited to claims seeking a monetary judgment up to \$5,000 arising from a conflict related to goods and/or services.

The ODR System is not intended to digitize, automate, or replace any feature in the current NY UCS system for resolving small claims cases. Rather, the goal in implementing the ODR System is to increase access to justice by offering litigants an alternative approach that will supplement and complement existing small claims court procedures.

The ODR System will be developed to facilitate the online resolution of small claims cases, which seek a monetary judgment of up to \$5,000 for disputes related to the purchase and/or delivery of

goods and/or services (“Eligible Small Claims Cases”). The System will provide case filing, case management, and case resolution services. ODR will be mandatory for Eligible Small Claims Cases.

After a claim has been filed on the ODR System, the System will provide litigants with an opportunity to better understand the ODR process and their individual cases. It also will provide litigants with online tools to help settle their case within a limited time period. Unless a settlement is achieved, or the case is discontinued, the case filed in Small Claims Court will continue to final disposition at the courthouse.

More specifically, the ODR System shall include two dispute resolution stages with distinct user and system requirements. Stage 1 will be an expert system enabling litigants to learn more about ODR, the Small Claims Court process, options for resolution, and how to access information concerning their cases. Stage 2 offers automated negotiation, online negotiation (direct and structured), and online mediation.

Additionally, the website must clearly indicate that the ODR System is part of the NY UCS and that users will be subject to court oversight, and must comport themselves accordingly.

Technology Requirements

NY UCS intends the ODR System to include:

- The System should be hosted in the cloud and available to users on the internet using secure protocols (HTTPS).
- Hosting services must be in a secure environment. Proposals must include a description of vendor’s servers and database security measures employed to protect court and participant data from unauthorized access and data loss. Any data to which vendor shall have access as a result of participating in the ODR System in any manner shall not be used solely in connection with the Project and for no other purpose. All participant and court data shall be deemed strictly confidential. Secondary dissemination of any such data by vendor its employees, agents or any other party acting on behalf of vendor shall be strictly prohibited. “Secondary dissemination” shall mean the sale, transfer, distribution, transmission, disclosure or other revelation of, or grant or allowance of access to, such data, directly or indirectly, to any third party not expressly granted access in writing by NY UCS. “Third party” shall mean any person or entity other than vendor, including, but not limited to: (i) any agent, contractor, subcontractor, subsidiary, partner, shareholder, member or affiliate of vendor. Data must not leave the United States. Vendors must regularly scan their systems for security vulnerability. Vendors must permit NY UCS to scan and/or audit vendor’s system for data security purposes. Vendor will be required to deliver security reports to NY UCS upon request. Further, vendors will be required to comply with security requirements required by NY UCS, including, but not limited to those listed on Exhibit C hereto (Data Security Form). Additionally, vendor shall be required to destroy data: upon

termination of access thereto by NY UCS. Vendor shall, upon request, provide a certificate attesting to such destruction.

- The System should be mobile-friendly and have a responsive design.
- The System should be able to be expanded to have multi-language capabilities in the future.
- The System should be able to provide guided pathways scaled for small claims cases.
- The System should be intuitive and have a simple design that minimizes the number of clicks per activity, pre-populates fields with available data, minimizes duplicity and eliminates excessive forms.
- The System should have a mechanism for secure document upload and download.
- The System should have a mechanism for reporting problems.
- The System will provide an online financial gateway for the collection of mandatory fees for each case to be paid to the court via credit cards, bank or debit cards and/or payment systems such as PayPal. The online financial gateway should be PCI DSS compliant.
- The System should be able to provide system notifications via text and/or email.
- The System will incorporate expert system information updates as soon as they are provided by NY UCS.
- The System should be ADA compliant and meet 508 standards. (see <https://www.access-board.gov/guidelines-and-standards/communications-and-it/about-the-ict-refresh/final-rule/text-of-the-standards-and-guidelines>).
- Feedback, reports and data requested by NY UCS should be in a machine reading format, preferably XML.
-

Accessing the ODR System

Case Filing, Court Review and Case Management

The System will provide for an intake, screening, and a case review process for each case prior to the court's acceptance of the case for ODR.

Intake and Screening

Claimants with Eligible Small Claims Cases will be able file their cases in-person and on-line.

In-person

Small Claims Court clerks will direct claimants with Eligible Small Claims Cases to participate in the mandatory ODR pilot. Claimants who wish to file the case in-person and pay the associated court fees may do so at the Small Claims Clerk's office. After the case has been filed with the court and an index number has been provided, these claimants will be provided with a web address to a landing page where they can access the ODR System.

Alternatively, once directed to mandatory ODR by a Small Claims Court clerk, claimants will also have the option to file and pay the associated court fees online via the web address provided by the Small Claims Court clerks. The engaging and easy-to-understand landing page will

explain how to sign-in and file a case on the ODR System.

The Small Claims Court will also provide terminals where claimants can commence their cases online.

On-line

There will be a link to the ODR System on the Civil Court, Small Claims Part web page, and on NYCourtHelp.gov. Using guided pathways (or a comparable method), the System will assess whether the case is eligible for the mandatory ODR System. If a case is eligible, the claimant will be able to file and pay the associated court fees online and access the ODR System.

Court Review Process

For those cases which were not filed in court, after a claimant initiates a case online and is screened by the System for eligibility, Small Claims Court staff will then review the case information provided by the claimant on the online platform to ensure it satisfies statutory requirements to be accepted for filing in the Small Claims Court. If the case is accepted by the Court, the System will notify the claimant that the case was accepted. It also will explain the fees that must be paid before an index number (file number assigned to every new case) can be assigned.

Additionally, the court will mail the defendant a copy of the summons and complaint. That mailing will include a 1-page “flier” informing the defendant about mandatory ODR for the case, and instructions on how to access the landing page for the System. Moreover, if the claimant provides an email address for the defendant, the ODR System will email the defendant a copy of the summons and complaint after the case has been accepted and assigned an index number.

Collection of Court Fees

The System will provide a mechanism for the collection of mandatory fees for each case to be paid to the court.

Case Management

All registration (account) information and case information will be available to NY UCS on a case management system existing independent of the court’s case management system. NY UCS should be able to run reports and export data and records. There is no initial integration of the two systems.

Registration and Log-In

Users will be provided with an easily understandable and literacy-level-appropriate online registration page where they can (1) provide their name; (2) establish a username and a password; (3) provide contact information, which can be a telephone number and/or email address (if only a telephone number is provided, then it must be a smartphone number to ensure that the user can access the ODR System); (4) and insert case-identifying information.

Users will need to authenticate their identities, e.g., via a combination of picture and driver’s

license. Proposals should consider what other authentication procedures might be desirable or preferable.

The System will pre-populate any relevant information to minimize duplication.

NY UCS and Mediation Center Registration Process

Relevant employees at NY UCS and Mediation Centers interacting with the System will register by (1) creating a username and password; (2) identifying NY UCS or Mediation Center for which they work (from a drop-down menu); and (3) their role (e.g., administrator, Judge, mediator). Administrators at NY UCS or the Mediation Center will receive an email alert when an employee has registered with the System. NY UCS and Mediation Center administrators will also be able to log-in to the System and obtain access to all cases assigned and/or worked on by their personnel.

Login Pages and Display

Claimants and Defendants

Once they have registered, claimants and defendants will be able to log into their ODR System accounts at will or in response to system notifications (sent via text and/or email). A log-in button will be available on the landing page, and available from email/text alerts.

NY UCS

NY UCS staff will have a pre-established ODR System account and will be able to log into their accounts at will and based or upon system notifications.

Mediation Centers

The Mediation Centers will have pre-established ODR System accounts and will be able to log into their accounts at will or upon system notifications.

Display after Log-In

Users will have access to an online “resolution room” to work out their issue. The same online resolution room will be available to all parties (including court administrators and judges, and assigned Mediation Centers), but will not be available to any user that has not been granted access to the room.

The resolution room will show contextual status information that informs the party and all other users about whose action is next, the action to be taken, and the deadline for the action, as well as the consequences of not taking the action. This next-action information will be contextual and will change based on the role of the user in the case (a mediator will see different contextual information than the party).

Because the litigants will likely have only one case pending, they will be immediately directed to the online “resolution room” after log-in. However, the Mediation Centers and court will be managing several cases, so they will be presented with a “dashboard” listing all their active cases after they log-in. Cases will be organized in terms of priority determined by relevant deadlines for

response. The Court, and Mediation Centers should also have an option to search for a case based on case-identifying information.

Expert System

Landing Page

There will be a log-in section for the claimant and defendant to access the ODR System. Upon the defendant's first log-in, the System will: (1) provide a copy of the summons and complaint in the case; (2) ask screening questions to ensure the case does not fall within an exemption to Mandatory ODR; (3) ask the defendant to confirm identifying case information entered by claimant; (4) provide claimant's summary of the case; (5) remind defendant of the trial date; (6) Provide a space for defendant to enter information related to the claim; (7) Ask whether the defendant has a counterclaim. The System will automatically send any counterclaim information to the court's dashboard so that the court is aware.

After the defendant has entered the requisite information on the ODR System and is not deemed exempt from ODR, the claimant will be notified that online negotiations can commence.

Description of the Expert System

The Expert System ("ES") describes the multimedia content that can be accessed by users to facilitate their understanding of the court process, the ODR System and their individual cases. The multimedia content can be accessed by users via navigation through guided pathways, interaction with materials on topical web pages, natural language queries, or similarly described means. The goal of the ES is to equip users with an understanding of the court process and their options, so that they can engage competently in a negotiation, mediation, or otherwise with the opposing party to have their case resolved. Initial interaction with the ODR System will be the ES, so it is critical that the first impression is positive and that the user is encouraged to stay engaged. Attention should be given to a user experience that compels the user to take reasonable action toward the resolution of their dispute and encourages (even incentivizes) continued engagement with the ODR System as appropriate until a satisfactory resolution is achieved.

Feedback features should also be built into the ES to enable users to provide feedback regarding the information that is provided and the experience more generally.

Information in the Expert System

The Expert System will include the following:

- The ODR Small Claims Court process "explainer" videos
- The NYC Small Claims Court video regarding the statement of claims
- The NYC Small Claims and Commercial Claims Guide
- Court-based legal and procedural information
- Legal referrals
- FAQs
- Access to individualized case information

Dispute Resolution Processes

The dispute resolution section will provide for three options for on-line settlement:

- 1) Automated Negotiation/Double-blind Bidding;
- 2) Online Negotiation (Direct and Structured); and
- 3) Online Mediation

Confidentiality and Oversight

The System will include a privacy policy and terms of use section. The System will advise users that their case is confidential but could be reviewed by court personnel as part of routine oversight review. The System should include a button to “Report a Party” or include some other mechanism to ensure that parties know there is oversight and that they are accountable for their conduct on the platform.

Timing

Use of the ODR System for negotiation purposes will be available to the parties until the close of business the day before the hearing date.

Feedback

A feedback template will be built into the ODR System to enable users to provide feedback regarding their experience in utilizing the dispute resolution processes to resolve their claims.

Automated Negotiation/Double-blind Bidding

The dispute resolution section will first offer the parties the opportunity to settle the cases with automated negotiation options. The System will offer the parties an opportunity to settle for a monetary amount which will include a range for each party to adjust. Alternatively, the System will allow each party to submit a few blind offers, and if there is a match within a preset fixed settlement range, the System will move the parties to the Online Negotiation space, where additional settlement terms can be negotiated.

Online Negotiation (Direct and Structured)

Direct Online Negotiation

Parties will be offered the opportunity to conduct direct party-to-party negotiations both synchronously and asynchronously. The System will offer standardized language to users to initiate a dialogue. Any pre-scripted opening language, questions and responses in the online negotiation space should balance efficiencies, neutrality, and self-determination. There should be open fields for the parties to communicate directly with each other.

Structured Negotiation

In cases where the parties were able to reach agreement related to the monetary amount of the

claim in Automated Negotiation, the System will provide the defendant with a drop-down menu (or a similar configuration for closed-ended questions) to provide selections related to the following terms of settlement: (1) whether payment will be a lump sum or monthly; (2) method of payment (check, credit, etc.); (3) frequency of payments (including first payment); (4) and provisions for missed payments (default). The defendant's selections will be presented to the claimant for negotiation.

If the parties come to an agreement, the terms of settlement will be auto-populated in the Settlement Agreement Template.

If the parties do not come to an agreement within a designated timeframe, the System will direct the parties to the Online Mediation space.

One goal is to ensure that the System operates efficiently. Accordingly, engagement in this space will be subject to internal time limits for inactivity. System design for notifications for non-engagement will offer both notices to check in with the parties, as well as ask substantive questions to give the parties an opportunity to provide detailed information regarding his or her status.

Online Mediation

The Online Mediation space will provide for the use of a third-party neutral (i.e., mediator) who will assist the parties in the online settlement negotiations.

As part of the pilot, a few local Mediation Centers will register to participate, assigning their trained, volunteer mediators to cases as they receive notifications of a case assigned to the Mediation Center. When either party requests mediation, the System will send out a notification to the Mediation Center that is next on a rotating list. The Mediation Center staff will assign one of the trained mediators to mediate the case. Each Mediation Center will have a dashboard on the System where they can see the cases that are assigned to their centers. Individual mediators will create an account on the System.

For cases that went through the direct negotiation process before the assignment of a mediator, the mediator should be able to see portions of the direct negotiation file while the case is active. Once the case is closed, the direct negotiation file will be deleted.

The mediators participating in the Project are very experienced at providing in-person face-to-face mediations. For this reason, proposals should consider how mediations could be held using text and/or video software. But video connections are not always reliable, may be complicated or intimidating for first time users, and may be as difficult to schedule as face-to-face mediations. Explain how these concerns might be addressed. Additionally, the proposal also should describe how asynchronous text-based mediation could be provided. Consider whether the System should automatically deliver pre-scripted suggestions or instructions that mediators could edit.

Archiving the mediation: After a mediation is closed by the mediators, it is anticipated that the record of the names of the parties, a case number, the mediator assigned, a notation regarding the outcome of the mediation process (e.g., settlement reached or not) and a copy of the settlement agreement (if one was executed) will be maintained in the case management system, and available to court on demand

Settlements

The System will provide for the Settlement Agreement Template that will be utilized in all

agreements reached on the System. If an agreement is reached via Automated and/or Online Negotiation, the terms of settlement will auto-populate in the Settlement Agreement Template. If an agreement is reached via Online Mediation, the terms of settlement will manually be entered by the mediator into the Settlement Agreement Template.

Final agreements will appear in the parties' online resolution room for the case, and parties will be able to accept and sign the settlement agreement online. If either party requires more time before signing the agreement (or would like to have an attorney review it before signing), a mediator can be assigned to submit the agreement to the parties' online resolution room with an agreed upon timeframe to respond. If either party fails to respond within the allotted timeframe, then the mediator can offer to schedule a mediation session or offer the opportunity to finalize the agreement via the structured negotiation space.

Proposals should consider how to offer the online equivalent of an in-person, in-court allocution. They also should consider whether it is possible to design a workable synchronous or asynchronous allocution process.