



Is your court case management RFP perpetuating outdated technology?

HOW TO WRITE AN INNOVATION-SEEKING RFP

About this white paper

The Joint Technology Committee (JTC) was established by three court industry associations – NCSC, NACM, and COSCA – to improve the administration of justice through technology. The JTC recently issued a report titled “Courts Disrupted”. In the words of its own abstract, the report “offers ways in which court managers can leverage the concept of disruptive innovation to make justice available to a wider audience at a lower cost while preserving fairness, neutrality, transparency, and predictability in the judicial process.” That report, along with JTC’s recent NextGen component model for court technology standards as well as our deep experience and relationships partnering with court systems, serves as the foundation for this white paper, which offers suggestions and thought-provoking ideas to consider when drafting your court case management RFP.

FOR MOST COURTS ...

a new case management system (CMS) represents a rare opportunity to revise workflow, become more efficient, and improve interactions between citizens and the many justice partners who rely on case data. With a modern, well-designed CMS in place, judges should be able to spend more time working on cases and less time on paperwork. Clerks should be more efficient, spending less time on repetitive tasks such as data entry. Data should be more secure, because newer systems are better supported and less vulnerable to attacks.

Partners in the court system, such as sheriffs, public defenders, and attorneys, also need to be able to access and interact with case data. But too often, incompatibilities in technology or a lack of integration prevent them from doing so effectively. In fact, in an NCSC national-level survey of registered voters' opinions of their state court, 60% of respondents felt that courts are falling behind and need to do a better job of adopting new technologies to break down barriers between the public and the courts. When thoughtfully designed, implemented, and integrated, a modern CMS should enable courts of any size to serve the public in a new and better way.

Unfortunately, most requests for proposals for a CMS don't account for any of these possibilities and opportunities. Too often, these RFPs present little opportunity for innovation or even improvement. Instead, they drill down into technical requirements at levels of extreme detail, resulting in a document that often does little to help differentiate vendors. The result: a process that is well suited to replicate paper- or DOS-based procedures, but not to help bring a court into the future.

A quick look at the procedure for issuing a traffic ticket shows the vast contrast between a backward-looking solution and one that seeks to innovate. In some jurisdictions, a police officer uses a small handheld device to capture the data necessary to issue a ticket. The police officer can scan the VIN number, manually input other data, and then send it all electronically to a CMS that creates a case. But in more than half of jurisdictions, police officers still complete, by hand, a six-part carbon-copy form that is mailed to the courthouse.

The traditional RFP process doesn't give courts the information they need to move from the six carbon copies to the handheld device. Instead, the process is more likely to result in each of those copies being perfectly replicated on its own screen.

In the past, it's been largely up to courts and counties to build their own technology. Now, courts can take advantage of the experience and skills of accomplished technologists who thoroughly understand, and specialize in, the legal field. These experts can bring a court a modern CMS that connects the various members of the justice ecosystem and helps the court better fulfill its mission. Of course, a court still needs to write an RFP to choose experts who can provide the CMS that best fits the court's particular needs. This white paper will offer ideas to help courts write an RFP to do just that. By helping courts to reimagine the information-gathering process, and by presenting two new structures that could greatly improve bidding procedures, this guide will help courts procure the technological solutions that can best improve the experiences of courts, their partners, and the public.

DEFINING THE STARTING LINE

It's nearly impossible for any vendor to help bring a court into the future if they don't know where the court is starting from. That's why an RFP should give vendors detailed information about the current state of a court system's technology.

In the vast majority of RFPs, this information becomes clear only after the vendor has proposed a fixed price for a two- to three-year contract. That's when a representative of the court sits down with a vendor to review their interpretation of the many line-by-line items in the RFP, and that's when the vendor discovers whether they have been interpreting those requirements as the court intended.

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That may sound like a setup for unpleasant surprises, and indeed, it often is. Fortunately, there are a number of ways to prevent this. The simplest is for the court to provide solid background information about its current technology, and about how it could improve, in the RFP. It helps to know, for example, what type of servers the court is currently running and whether the software being used is Web-based or has to be downloaded onto each workstation.

Some necessary information may seem like common sense – but if courts don't provide it, would-be technology partners are left to guess. How fast is the court's Internet system? Any modern CMS is going to be Web-based, and quite possibly cloud-based, so a court will need a relatively up-to-date infrastructure to connect with it.

In addition to the considerations listed above, an effective RFP will explain:

- The three biggest challenges related to communications or data that the court has faced in the past five years
- New concerns that the court expects to become significant during the next five years
- The proposed lifetime of the new system
- The court's ability, and willingness, to change its business processes in order to increase efficiency
- The court's caseload and case lag

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- Anything that makes this particular court system unique
- The court's data-entry challenges, including data-entry procedures that the court would like to eliminate and particular bottlenecks in the data-entry process
- The court's goals for better serving the public, along with information about the entry points that the court and its partners use to access data
- The technologies used by current court employees to help run the courtroom efficiently
- The court's preference for the structure of a proposal, and the relationships between technology partners. Is the court looking for a single vendor to fulfill a contract, or would the court consider multiple vendors? Is a prime vendor with several subcontractors acceptable?



MAKING ROOM FOR INNOVATION

In addition to information that the court should provide, there are also important questions that courts should ask. These questions, unlike many of the line-by-line requirements that fill most RFPs, will help courts discover the important differences between potential technology partners. They'll also help the court choose a CMS that can advance its business goals.

- What are the current best practices in the use of case management systems, and how can you help us evolve? Do you have something groundbreaking to offer that we may not be aware of?
- What makes your solution different from that of other vendors?
- How can your court management system better interface with social media?
- How well does your software interface with other technologies, especially those currently in use by the court? Is your CMS specifically designed for integration, or will extensive modifications be necessary?
- How configurable is your software? How easily can a clerk configure a new case type to reflect legislation that has just passed?
- How user-friendly is your software, and how much training does it require? What sort of user support is available, or necessary, after the end of the training period?
- What is your ideal implementation path?
- How can you help us serve our constituents better?
- What does your product road map look like?
- What can your company provide that makes you the best choice for this opportunity? How can your company provide the most up-to-date technology that can help us meet the demands of serving the public in the 21st century?
- What input have you received from the Bar around technologies that they use or would like to see used within the courts to make it easier for them to do business there?

RETHINKING THE BIDDING PROCESS

Clearly, an RFP that addresses these issues will have made significant progress in facilitating information-sharing between courts and technology partners, and will make it more likely that the court will implement a technology solution that looks to the future.

But changes in the structure of the bidding process, and the role that the RFP plays within it, also have the potential to make a large impact and to help court systems make better technology choices.

One approach, called the component design model, has been suggested by the Joint Technology Committee of the National Center for State Courts (NCSC). In most existing court technology systems, which the NCSC describes as "tightly coupled," each component of a CMS or other court technology is closely connected to and integrated with other parts of the system. Unfortunately, the interrelatedness of these components makes it difficult to update one part of the system or to adapt it to new business practices, without making significant changes to most or all of the rest of the system.

The alternative is a modular system, in which the functionality necessary to one part of the court's technology can be easily swapped out or upgraded without affecting the rest of the court's technology. The definition of a component is based upon a court's business need, not on technological attributes. A "component" could be a case participant manager, an electronic filing manager, or scheduling/calendaring functionality. Some capabilities, such as reporting and analytics, search functions, and security, will still need to be shared across components. The NCSC acknowledges that a modular system, while providing much-needed flexibility, will generally be more expensive than an all-in-one solution.

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The benefits to such a system, however, are compelling. The NCSC believes that, in the long run, a component design approach will allow courts to better meet new business requirements as they emerge. But the NCSC also cites other benefits for court systems, many of which could be realized in a shorter time frame:

- More transparency, and better ability to make build vs. buy decisions
- Greater capacity for developing local strategy
- Enhanced opportunity for individual counties and states to become specialists in different aspects of case management
- Faster implementations
- Improved ability of court leaders to prioritize filling gaps in their technology, rather than purchasing an entire new system

Under this system, court managers would still conduct an RFP process. Because that process would be limited to a selection of components, rather than an entire CMS, it should be more manageable. The court managers could then implement the components they need immediately, with the option to add or replace additional components at a later date without having to replace everything else.

Another approach is for courts to split the RFP process into two phases – a discovery phase and an implementation phase. To begin the discovery phase, the court would issue a request for information, or RFI, rather than an RFP. Having done this, the court would then be in a strong position to conduct discovery work with a select group of vendors at a fixed price.

This discovery phase would include business process review, engineering, preliminary configuration, and a schedule for system implementation. During this phase, all parties would be able to gain a clear understanding of the challenges faced by the court, its current technology, and the possibilities that a modernized system could bring. The discovery work leads to a fixed price and a reliable schedule for system implementation.

Courts that are embarking on the procurement process for a new CMS should have confidence that, at the end of the undertaking, they'll have a system that is not only more modern and efficient, but well-positioned to adapt with them as business requirements change. By providing and asking for a different range of information than is usually contained in an RFP, and by reconsidering the structure of the RFP process, courts will greatly increase their chances of finding and implementing the technology they, and the public, need and deserve.

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