

United States Bankruptcy Court
District of Massachusetts

Request for Quote
Avaya Telephone System Maintenance

Solicitation Number: USBC-US-TEL_Support.2010.07
Request Date: August 26, 2010

Attention: Interested Vendors

The U.S. Bankruptcy Court for the District of Massachusetts is seeking a support, maintenance and upgrade solution for its Avaya Telephone system. Interested vendors must submit a quotation in accordance with the requirements described below and in the attached RFQ Requirements document.

Special Notes:

This is a request for Open Market Pricing. A fixed price, Multi-Year contract will be awarded based upon the Best Value offer from this RFQ.

Quote Due Date: Quotes shall be received by the United States Bankruptcy Court for the District of Massachusetts no later than 2:00 PM EDT on Friday, September 10, 2010. Quotes may be mailed, e-mailed or handcarried to the address listed below. Regardless of method, all quotes are due at the same time.

Submit Quotes to: James M. Lynch, Certifying Officer
U.S. Bankruptcy Court, District of Massachusetts
J.W. McCormack Post Office and Court House
5 Post Office Square, Suite 1150
Boston, MA 02109-3945
Email: James.Lynch@mab.uscourts.gov (Emailed quotes must include the Solicitation Number in the subject line.)

Clarifications: Written requests for clarifications of the RFQ shall be received prior to 2:00 PM EDT, September 6, 2010. Submit requests to the COTR named below.

Contracting Officer's Technical Representative:

Laurie Mann-Streng
U.S. Bankruptcy Court - District of Massachusetts
J.W. McCormack Post Office and Court House
5 Post Office Square, Suite 1150
Boston, MA 02109-3945
Email: [Laurie Mann-Streng@mab.uscourts.gov](mailto:Laurie_Mann-Streng@mab.uscourts.gov)
Phone: (617) 571-8125

Schedule of Events:

- Questions and clarifications due by 2:00 PM EDT, September 6, 2010.
- Final Quotes are due by 2:00 PM EDT, September 10, 2010.
- Award is scheduled to be made by September 17, 2010.

**RFQ - Telephone System Maintenance
US Bankruptcy Court - District of Massachusetts
RFQ Requirements**

1. The U.S. Bankruptcy Court, District of Massachusetts has the requirement of a renewed software and hardware maintenance agreement for their Avaya IP telephone system.

- 1.1 System History

The U.S. Bankruptcy Court for the District of Massachusetts has three locations each with a telephone system component. The three locations are Boston, Worcester and Springfield, Massachusetts. The Worcester and Springfield sites support not just the Bankruptcy Court, but the U.S. District Court and the U.S. Probation and U.S. Pretrial Services offices for the District of Massachusetts as well. The Boston site also supports the U.S. Bankruptcy Appellate Panel for the First Circuit.

The system was installed in phases:

May 2008:	Worcester as Primary
Aug. 2008	Springfield as LSP
Aug. 2009	Boston Core installed
Sept. 2009	Worcester/Springfield Software updates: CM updated, VM converted to Modular Messaging and 8710s removed from Worcester.
Oct. 2009	Boston as primary, Worcester as ESS and Springfield as LSP.

- 1.2 Purpose of Procurement

The court intends to investigate the cost of maintenance for the software and hardware for these systems. The court is also asking for various pricing options including 1, 2 and 3 year contracts with 8-5 coverage, 24x7 coverage and IP coverage.

- 1.3 System Synopsis

A full system synopsis is available by submitting a LOA to Avaya for a system summary. However, in brief, the system software and hardware is as follows:

**RFQ - Telephone System Maintenance
US Bankruptcy Court - District of Massachusetts
RFQ Requirements**

1.3.1 Software

- a) Call Manager Version 5.2.
- b) Modular Messaging Version 5.1-4.0
- c) Mutare
- d) Prognosis 850

1.3.2 System Hardware Synopsis by location

- a) Boston includes:
 - 1 S8730 Server with dual servers
 - 2 - G450 Media Gateway
 - 1- EMMC
 - 1 application server
 - 1 Prognosis server
 - 1 MSS server
 - 1 MAS server

NOTATION: Tandberg Codian videoconferencing gateway is integrated for IP and ISDN videoconferencing. (The Tandberg Codian hardware and software is not part of the RFQ for support and maintenance.)

- b) Worcester includes:
 - 1 ESS server
 - 1 G650 containing 1 IPSI, 2 CLANs, 1 Medpro and 1 Val board

- c) Springfield includes:
 - 1 S8300 server
 - 1 G700 server

1.3.3 Phone Inventory

- a) The phone inventory will not be a part of this RFQ or warranty.
- b) The sites have a combination of 4600 series, 9300 series and Polycom conference phones.

RFQ - Telephone System Maintenance
US Bankruptcy Court - District of Massachusetts
RFQ Requirements

1.4 SPECIAL REQUIREMENTS:

- 1.4.1 Only quotes from Avaya Corporation or Authorized Avaya business partners will be considered.
- 1.4.2 A detailed service level proposal should be included for each option quoted in this RFQ, including:
- Software Support, Software Support plus Upgrades,
 - Software Support plus Upgrades and
 - IP and On-Site Hardware support.
- 1.4.3 All hardware and software support shall be provided from U.S. based support offices.
- 1.4.4 Offeror should include three (3) references, preferably federal courts and at least customers of similar size and scope of support for each type of support proposed.
- 1.4.5 Availability and proximity to the court - Offeror should detail company's unique ability to provide support to the court that is both timely and potentially local. Although the offeror may have national offices located elsewhere, the court will consider the contractors ability to quickly provide services in times where services are required.
- 1.4.6 Escalation and Trouble Ticket procedures - The trouble ticket process should be detailed with any specific escalation procedures included. Any company specific features or benefits should be included in this statement.
- 1.4.7 Offeror should include any specific benefits and features of each support level that represent the company's unique ability to provide support and assist the court in any software or hardware issue and resolution and possible upgrade projects.
- 1.4.8 Offeror should detail standard and specialized training of support teams available to the court under contract including not just Avaya specific hardware and software, but also IP network support and software including Cisco based network systems. Team support structures and consistency of contact will also be considered. Please include any structures or qualifications that uniquely establish the contractors superior ability to

RFQ - Telephone System Maintenance
US Bankruptcy Court - District of Massachusetts
RFQ Requirements

support the terms of the contract. Each bidder has been asked to detail specific strengths that uniquely qualify them to proffer support to the court.

- 1.4.9 Software plus Upgrade support is being quoted as an option. Offeror must outline in detail for evaluation the offeror's training and qualifications, project management and other specific features custom to the option. This should include at a minimum the following in the breakout of the support services for software upgrades.
- a) Offeror should specify certification, training and experience of core team assigned to assist with software upgrade support. Included should not just be certification in Avaya products, but also industry standard network software including Cisco based networks and Windows 7 environments.
 - b) Offeror should detail methods of project planning, project team structure and assistance that represent the standard level of software upgrade support.
 - c) Offeror should include any other specific detail that will clarify the package option.
- 1.4.10 Software plus Upgrade and IP support is also being quoted as an option. Offeror must outline in detail the specific benefits of this Upgrade and IP support. Offeror must detail for evaluation the offeror's training and qualifications, project management and other specific features custom to the option. This should include at a minimum the following in the breakout of the support services for software upgrades.
- a) Offeror should specify certification, training and experience of core team assigned to assist with software upgrade support and IP support. Certification and support should not just include certifications of Avaya hardware and software, but also Cisco based networks and Windows 7 environments.
 - b) Offeror should detail methods of project planning, project team structure and assistance that represent the standard level of software upgrade support and IP assistance.

RFQ - Telephone System Maintenance
US Bankruptcy Court - District of Massachusetts
RFQ Requirements

- c) Offeror should include any other specific detail that will clarify the package option.

2 Warranty Specifications

2.1 Warranty Service Requirements

2.1.1 Warranty Requirements

- a) Any replacement hardware and software component or upgrades shall include, at a minimum, a 12 month warranty (parts and labor) against any defects or damage, caused by manufacturer, contractor, or contractor's subcontractors.
- b) The contractor shall provide certification of newly installed components so that full warranty coverage shall be provided by the manufacturer.
- c) All existing hardware and software components shall be warranted for repair, replacement and upgrades.
- d) All repairs made under warranty shall be at the sole expense of the contractor, including parts, software, labor, travel expenses, meals, lodging and any other costs associated with repair.
- e) The contractor shall warrant that all maintenance staff who provide service have been fully trained and certified by the manufacturer as qualified to service the system.
- f) Warranty maintenance and repair service shall be provided by the contractor from 8:00 a.m. to 5:00 p.m. Monday through Friday. The contractor shall provide a two (2) hour on-site response time in the case of emergencies and 24 hours on-site response time in the case of routine service calls. Emergencies are considered system problems in which 20% of the telephones or a trunk is inoperable.
- g) The contractor shall provide a toll free help line for maintenance and programming questions/assistance during the warranty period.
- h) Remote monitoring, diagnostic, and repair services may be

RFQ - Telephone System Maintenance
US Bankruptcy Court - District of Massachusetts
RFQ Requirements

provided using a dialup modem, Site Event Buffer (SEB), or other secure method. These services shall be provided by whatever means is recommended by the IP Telephony system manufacturer. The offeror shall clearly state how the remote monitoring, diagnostic and repair services will be provided with their proposed solution (e.g., dial-up) as specified in Section 7.1.7. The MIBs for the IP Telephony system shall be put on the Court's SNMP system (Nagios).

- i) The offeror shall explain how system alarms are monitored and responded to remotely. Additionally, the offeror shall explain what security features are provided to protect remote diagnostics access ports from unauthorized users. Vendors are not permitted to VPN into the court's data network.

2.1.2 Non-Warranty Services

- a) Offerors shall also provide hourly labor rates for service calls relating to non-warranty service including Moves, Adds, and Changes (MACs).
- b) The offeror shall provide information on their extended warranty service contracts and follow-on maintenance programs available to the Court after the end of the warranty period.
- c) Offerors shall provide information on their time-and materials repair services and estimated on-site response times for routine service calls and emergency service calls.

2.2 Pricing Specifications

The court requires pricing on all hardware, software and the option of IP coverage. For comparative purposes, the pricing should be broken out in the following manner. A pricing table sample is also attached.

2.2.1 Option 1

Software Support (24x7) priced with both 1 year and options for 3 years, paid each year should the option be exercised.

**RFQ - Telephone System Maintenance
US Bankruptcy Court - District of Massachusetts
RFQ Requirements**

Onsite Hardware (8x5) priced with both 1 year and options for 3 years, paid each year should the option be exercised.

2.2.2 Option 2

Software Support Plus Upgrades (24x7) with the 3 year total and the annual payments for this option.

Onsite Hardware (8x5) priced with bo both 1 year and options for 3 years, paid each year should the option be exercised.

2.2.3 Option 3

Software Support Plus Upgrades with IP Support (24x7) with the 3 year total and the annual payments for this option.

Onsite Hardware (8x5) priced with bo both 1 year and options for 3 years, paid each year should the option be exercised.

2.2.4 Included in the pricing should be a detailed pricing breakout report of the software and hardware warrantied including product descriptions and licensing totals for each portion of the warranty.

3. Schedule of Performance

The period of performance of this contract will be determined by the options exercised.

Option 1 Period of Performance:

The schedule of this contract is from the date of the Award, October 1, 2010 - September 30, 2011 with two single year options. This contract may be for hardware only, software only or for both hardware and software.

- a) Base year: Date of award to begin October 1, 2010 - September 30, 2011.
- b) Option Year 1: October 1, 2011 through September, 30, 2012.
- c) Option Year 2: October 1, 2012 through September, 30, 2013.

- The purchase order shall run from the date of the award, October 1, 2010 until the end of the fiscal year on September 30, 2011 and will include two 12-month option periods.

RFQ - Telephone System Maintenance
US Bankruptcy Court - District of Massachusetts
RFQ Requirements

- These option periods may be renewed at the discretion of the court. The decision whether to renew or not rests with the Contracting Officer and will be based on vendor performance and availability of funds in each new fiscal year.
- Notification of renewal will be made within 45 days of the expiration of the current contract period.

Option 2 Period of Performance:

The schedule of this contract is from the date of the award, October 1, 2010 through September 30, 2013 for the software portion only. This contract may or may not include hardware for one (1) to three (3) year options.

- a) Base year software: Date of award to begin October 1, 2010 - September, 30 2013.
- b) Base year hardware: Date of award to begin October 1, 2010 - September, 30, 2010.
- c) Option Year 1 hardware: October 1, 2011 through September, 30, 2012.
- d) Option Year 2 hardware: October 1, 2012 through September, 30, 2013.

- The purchase order for the software option shall run from the date of the award, October 1, 2010 until the end of the award period on September 30, 2013 and will be paid out annually as optioned out by the court.
- Should the hardware option be selected, the purchase order would include the base award time period of October 1, 2010 with the option periods to be renewed at the discretion of the court.
- The decision whether to renew or not rests with the Contracting Officer and will be based on vendor performance and availability of funds in each new fiscal year.
- Notification of renewal will be made within 45 days of the expiration of the current contract period.

**RFQ - Telephone System Maintenance
US Bankruptcy Court - District of Massachusetts
RFQ Requirements**

Option 3 Period of Performance:

The schedule of this contract is from the date of the award, October 1, 2010 through September 30, 2013 for both hardware and software.

- a) Base year software: Date of award to begin October 1, 2010 - September 30, 2013.
 - b) Base year hardware: Date of award to begin October 1, 2010 - September 30, 2013.
- This purchase order for either option shall run from the date of the award October 1, 2010 until the end of the fiscal year or September 30, 2013; and will be paid out annually as optioned by the court.

4. Review Period

The review period shall be from September 10 until September 16, 2010.

5. Evaluation Factors

A fixed price award from this RFQ will be made based on the offer that represents the BEST VALUE to the government.

Quotes submitted will be evaluated based on the following evaluation criteria. Evaluation factors are of equal importance.

a. Technical Approach

- 1. Extent to which the Offeror's proposal demonstrates an understanding of overall requirements, as described in the RFQ Requirements document.
- 2. Extent to which the Offeror's proposal demonstrates a sound technical approach to accomplish the work requested and described in its entirety.

- b. History of Customer Service - The extent to which the Offeror's proposal demonstrates a history of excellent customer service. The vendor is required to submit 3 references for each level of support proposed. These references should be from federal customers, preferably courts of similar size and scope. Regardless, the referrals should be from similar size and scope installations.

RFQ - Telephone System Maintenance
US Bankruptcy Court - District of Massachusetts
RFQ Requirements

Extent, depth and quality of recent and relevant organizational past performance regarding:

1. Timeliness of Performance—The extent to which the Offeror met milestones and deliverables on time.
 2. Personnel—The extent to which the Offeror assigned knowledgeable staff who were valuable to the work effort.
 3. Responsiveness—The extent to which the Offer was responsive to technical direction and demonstrated a cooperative attitude.
 4. Quality—The extent to which the Offeror provided a quality product/services that complied with contract requirements, submitted accurate reports, products and services.
 5. Business relations—The extent to which the Offeror has shown business-like concern for its customer's interests.
 6. Customer Satisfaction—The extent to which the Offeror satisfied its customer with its products/services.
- c. Provide Timely Local Support - The extent to which the Offeror's ability to provide support that is both timely and potentially local. Although offeror may have national offices located elsewhere, the court requires the contractor to provide services quickly in times where services are required.
- d. Technical Expertise with Avaya Systems and other IP Network Systems - The extent to which the Offeror demonstrates or documents technical expertise in not just Avaya systems, but IP network systems such as Cisco, team support structures or unique qualifications which establish the contractor's superior ability to support the terms of the contract. Each vendor is asked to detail specific strengths that uniquely qualify them to proffer support to the court.
- e. Training, Qualifications and Project Management - With respect to any specific benefits exercised as part of Options 2 and 3, the Court will evaluate the offeror's training and qualifications, project management and other specific features custom to these options.
- f. Price - Offerors quoted prices will be evaluated for reasonableness. Unrealistic

**RFQ - Telephone System Maintenance
US Bankruptcy Court - District of Massachusetts
RFQ Requirements**

prices will not be considered for award. The government will evaluate three pricing options, and select the option that maximizes the support to the phone system.

6 Environment:

6.1 Location(s) for Performance of Maintenance Contract

Boston:

United States Bankruptcy Court
J.W. McCormack Post Office and Court House
5 Post Office Square, Suite 1150
Boston, MA 02109-3945

Worcester:

United States Bankruptcy Court
Donohue Federal Building
595 Main Street, Room 211
Worcester, MA 01608-2076

Springfield:

United States Bankruptcy Court
United States Courthouse
300 State Street
Springfield, MA 01105

6.2 Government Furnished Property

There are no materials required by the government for this RFQ.

6.3 Contractor Furnished Material

The offeror, upon award, will be responsible for all supplies, tools, equipment and material relevant to upgrades, repairs and support detailed in the warranty.

6.4 Meetings

Upon award, the government may request a meeting to establish any parameters and procedures for the beginning and execution of the contract. This meeting

RFQ - Telephone System Maintenance
US Bankruptcy Court - District of Massachusetts
RFQ Requirements

could be accomplished with a conference call or videoconference call. It will not require travel.

6.5 Travel and per Diem Requirements

All travel related to this contract including the execution of any warranted support, maintenance or repair shall be at the expense of the offeror.

6.6 Sources of Information and Data

All technical information relevant to this RFQ will be secured using the Avaya LOA to determine the system specifications. The system specifications are for the sole purpose of creating the RFQ. Any other technical information pertaining to the system will be made available upon award.

**RFQ - Telephone System Maintenance
US Bankruptcy Court - District of Massachusetts
RFQ Requirements**

PURCHASE ORDER TERMS AND CONDITIONS

H. Special Contract Clauses:

1. **Clause 1-1, Employment by the Government (JAN 2003)** included by reference.
2. **Provision 4-160, Cancellation Period and Ceiling (JAN 2010) - As prescribed in § 410.75.65(e)**

The cancellation period referred to in the “Cancellation under Multi-Year Contracts” clause (Clause 4-150) applies to each line item period set forth in Section B, at the quantities as set forth in Section B for each contract year. The cancellation ceilings are set forth below by the Offeror:

Contract Year	Cancellation Period*	Cancellation Ceiling*
Contract Year 2		
Contract Year 3		
Contract Year 4		

* To be completed by Offeror

I. Required Provisions and Clauses for All Open Market Small Purchases

1. **Provision B-1, Solicitation Provisions Incorporated by Reference (AUG 2004)**

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the contracting officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this address:

<http://www.uscourts.gov/procurement/clauses.htm>

**RFQ - Telephone System Maintenance
US Bankruptcy Court - District of Massachusetts
RFQ Requirements**

2. Clause B-5 Clauses Incorporated by Reference (OCT 2006)

This procurement incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the contracting officer will make their full text available. Also, the full text of a clause may be accessed electronically at this address:

<http://www.uscourts.gov/procurement/clauses.htm>

3. Wage Rate Determination - Not Applicable as an Exception under Clause 3-195 Exemption from Application of Certain Service Contract Act Provisions.

Please see the Guide to Judiciary Policies Vol. 14 Procurement Chapter 3, Section 325.25.30 Exceptions to the Services Contract Act.

4. Provision 3-5, Taxpayer Identification (JAN 2003)

a. Definitions. - “Common parent,” as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its federal income tax returns on a consolidated basis, and of which the offeror is a member.

“Taxpayer Identification (TIN),” as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a social security number or an employer identification number.

b. All offerors shall submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

c. The TIN may be used by the government to collect and report on any delinquent amounts arising out of the offeror’s relationship with the government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to payment recording requirements, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror’s TIN.

**RFQ - Telephone System Maintenance
US Bankruptcy Court - District of Massachusetts
RFQ Requirements**

- d. *Taxpayer Identification Number (TIN):* _____
 TIN has been applied for.
 TIN is not required, because: _____
-
- Offeror is a nonresident alien, foreign corporation or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;
 Offeror is an agency or instrumentality of a foreign government;
 Offeror is an agency or instrumentality of the federal government.
- e. *Type of organization:*
 sole proprietorship;
 partnership;
 corporate entity (not tax-exempt);
 corporate entity (tax-exempt);
 government entity (federal, state or local);
 foreign government;
 international organization per-26 CFR 1.6049-4;
 other _____.
- f. Common parent.
 Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.
Name and TIN of common parent
Name _____
TIN _____

5. Clause 3-3, Provisions, Clauses, Terms and Conditions - Small Purchases (JAN 2010) - As prescribed in § 310.50.30(d), § 325.30.20(b), and § 325.45.10(c).

- a. Provision 3-210, Protests (AUG 2004)
- b. Provision 7-60, Judiciary Furnished Property or Services (JAN 2003)
- c. The contractor shall comply with the following clauses incorporated by reference:

RFQ - Telephone System Maintenance
US Bankruptcy Court - District of Massachusetts
RFQ Requirements

- i. Clause 1-15, Disclosure of Contractor Information to the Public (AUG 2004)
- ii. Clause 2-60, Stop Work Order (JAN 2010)
- iii. Clause 3-70, Determination of Responsibility (JAN 2003)
- iv. Clause 3-205, Protest After Award (JAN 2003)
- v. Clause 7-20, Security Requirements (JAN 2010)
- vi. Clause 7-30, Public Use of the Name of the Federal Judiciary (JAN 2003)
- vii. Clause 7-35, Disclosure or Use of Information (AUG 2004)
- viii. Clause 7-85, Examination of Records (JAN 2003)
- ix. Clause 7-130, Interest (Prompt Payment) (JAN 2003)
- x. Clause 7-135, Payments (JAN 2003) (Payment means acceptance by the inclusion of this clause.)
- xi. Clause 7-140, Discounts for Prompt Payment (JAN 2003)
- xii. Clause 7-150, Extras (JAN 2003)
- xiii. Clause 7-185, Changes (JAN 2003)
- xiv. Clause 7-200, Judiciary Delay of Work (JAN 2003) (Applies for products and fixed-price services.)
- xv. Clause 7-210, Payment for Emergency Closures (AUG 2004)
- xvi. Clause 7-235, Disputes (JAN 2003)

- d. The contractor shall comply with the following clauses, incorporated by reference, unless the stated circumstances do not apply:
 - i. Clause B-20, Computer Generated Forms (JAN 2003) (Applies

RFQ - Telephone System Maintenance
US Bankruptcy Court - District of Massachusetts
RFQ Requirements

when the contractor is required to submit data on standard or optional forms.)

- ii. Clause 6-60, Rights in Data - General (JAN 2010) (Applies if data will be produced, furnished, or acquired under the purchase order.)
- iii. Clause 7-145, Government Purchase Card (JAN 2003) (Applies when the CO determines that the purchase card can be used to make payments.)
- iv. Clause 2-115, Terms for Commercial Advance Payment of Purchases (OCT 2006) (Applies if advance payment will be authorized.)
- v. Clause 2-115, Alt I (Applies if advance payment is authorized for photocopy equipment maintenance.)

The following apply to services only:

- vi. Clause 1-1, Employment by the Government (JAN 2003)
- vii. Clause 1-5, Conflict of Interest (AUG 2004)
- viii. Clause 3-160, Service Contract Act of 1965, as amended (JAN 2003) (Applies if the purchase order amount is over \$2,500 and will require the use of service employees.)
- ix. Clause 7-40, Judiciary-Contractor Relationship (JAN 2003) (Applies to services when not involving judiciary information technology funds.)
- x. Clause 7-65, Protection of Judiciary Buildings, Equipment and Vegetation (JAN 2003) (Applies when services are performed at a judiciary installation.)
- xi. Clause 7-205, Payment for Judiciary Holidays (JAN 2003) (Applies to time-and-materials or labor-hour contracts.)

RFQ - Telephone System Maintenance
US Bankruptcy Court - District of Massachusetts
RFQ Requirements

xii. Inspection/Acceptance

The contractor shall tender for acceptance only those products and/or services that conform to the requirements of this contract. The judiciary reserves the right to inspect or test any products or services that have been tendered for acceptance. The judiciary may require repair or replacement of nonconforming products or re-performance of nonconforming services at no increase in contract price. The judiciary must exercise its post-acceptance rights:

- (1) within a reasonable period of time after the defect was discovered or should have been discovered; and
- (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

xiii. Excusable Delays

The contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the contractor and without its fault or negligence, such as acts of God or the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The contractor shall notify the contracting officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the contracting officer of the cessation of such occurrence.

e. Termination for the Judiciary's Convenience

The judiciary reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the contractor shall be paid a percentage of the contract price reflecting the percentage of the work

RFQ - Telephone System Maintenance
US Bankruptcy Court - District of Massachusetts
RFQ Requirements

performed prior to the notice of termination, plus reasonable charges that the contractor can demonstrate to the satisfaction of the judiciary, using its standard record keeping system, have resulted from the termination. The contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the judiciary any right to audit the contractor's records. The contractor shall not be paid for any work performed or costs incurred that reasonably could have been avoided.

f. Termination for Cause

The judiciary may terminate this contract, or any part hereof, for cause in the event of any default by the contractor, or if the contractor fails to comply with any contract terms and conditions, or fails to provide the judiciary, upon request, with adequate assurances of future performance. In the event of termination for cause, the judiciary shall not be liable to the contractor for any amount for products or services not accepted, and the contractor shall be liable to the judiciary for any and all rights and remedies provided by law. If it is determined that the judiciary improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

g. Warranty

The contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

6. The following clauses are included by reference:

a. **Clause 2-5B, Inspection of Services**

b. **Clause 2-20A, Incorporation of Warranty - Warranty of Services (JAN 2003)**

i. Definition. "Acceptance," as used in this clause, means the act of an authorized representative of the judiciary by which the judiciary assumes for itself, or as an agent of another, approves specific services, as partial or complete performance of the contract.

RFQ - Telephone System Maintenance
US Bankruptcy Court - District of Massachusetts
RFQ Requirements

- ii. Notwithstanding inspection and acceptance by the judiciary or any provision concerning the conclusiveness thereof, the contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The contracting officer will give written notice of any defect or nonconformance to the contractor within 500 hours of use by the judiciary or other event whose occurrence will terminate the period of notice, or combination of any applicable events or period of time. This notice will state either
 - (1) that the contractor shall correct or re-perform any defective or nonconforming services; or
 - (2) that the judiciary does not require correction or re-performance.
 - iii. If the contractor is required to correct or re-perform, it shall be at no cost to the judiciary, and any services corrected or re-performed by the contractor shall be subject to this clause to the same extent as work initially performed. If the contractor fails or refuses to correct or re-perform, the contracting officer may, by contract or otherwise, correct or replace with similar services and charge to the contractor the cost occasioned to the judiciary thereby, or make an equitable adjustment in the contract price.
 - iv. If the judiciary does not require correction or re-performance, the contracting officer will make an equitable adjustment in the contract price.
7. **Clause 2-55, Privacy or Security Safeguards (JAN 2003) - As prescribed in § 220.25.80(b).**
- a. The contractor shall not publish or disclose in any manner, without the contracting officer's written consent, the details of any safeguards either designed or developed by the contractor under this contract or otherwise provided by the judiciary.
 - b. To the extent required to carry out a program of inspection to safeguard against threats and hazards to the security, integrity, and confidentiality of

**RFQ - Telephone System Maintenance
US Bankruptcy Court - District of Massachusetts
RFQ Requirements**

judiciary data, the contractor shall afford the judiciary access to the contractor's facilities, installations, technical capabilities, operations, documentation, records, and databases.

- c. If new or unanticipated threats or hazards are discovered by either the judiciary or the contractor, or if existing safeguards have ceased to function, the discoverer shall immediately bring the situation to the attention of the other party.

8. Provision 2-85C, Evaluation of Options Exercised at Time of Contract Award (JAN 2003) - As prescribed in § 220.40.60(a)(3)

Except when it is determined not to be in the judiciary's best interests, the judiciary will evaluate the total price for the basic requirement together with any option(s) exercised at the time of award.

9. Clause 7-223 Termination for Convenience of the Judiciary (Short Form)(AUG 2004) As prescribed in § 755.20.60(b)

The contracting officer, by written notice, may terminate this contract, in whole or in part, when it is in the judiciary's interest. If this contract is terminated, the judiciary shall be liable only for payment under the payment provisions of this contract for products received or services rendered before the effective date of termination.

10. Clause 4-150, Cancellation Under Multi-Year Contracts (OCT 2006) As prescribed in § 410.75.65(a)

- a. "Cancellation," as used in this clause, means that the Government is canceling all line items for all products or services in the contract year(s) subsequent to that in which notice of cancellation is provided. Cancellation shall occur by the date or within the time period specified in the contract, unless a later date is agreed to, if the Contracting Officer notifies the Contractor that funds are not available for contract performance for the subsequent contract year(s).
- b. Except for cancellation under this clause or termination under the Default clause, any reduction by the Contracting Officer in the requirements of this contract shall be considered a termination under the Termination for

RFQ - Telephone System Maintenance
US Bankruptcy Court - District of Massachusetts
RFQ Requirements

Convenience of the Government clause.

- c. If cancellation under this clause occurs, the Contractor will be paid a cancellation charge not over the cancellation ceiling specified in the contract as applicable at the time of cancellation.
- d. The cancellation charge will cover only:
 - i. Costs:
 - (1) Incurred by the Contractor and/or subcontractor;
 - (2) Reasonably necessary for performance of the contract; and
 - (3) That would have been equitably amortized over the entire multiyear contract period but, because of the cancellation, are not so amortized; and
 - (4) A reasonable profit or fee on the costs.
- e. The cancellation charge shall be computed and the claim made for it as if the claim were being made under the Termination for Convenience of the Government clause of this contract. The Contractor shall submit the claim promptly but no later than 1 year from the date:
 - i. Of notification that funds will not be made available for continued performance; or
 - ii. Specified in the contract by which notification of the availability of additional funds for the next succeeding contract year is required to be issued, whichever is earlier, unless extensions in writing are granted by the Contracting Officer.
- f. The Contractor's claim may include:
 - i. Reasonable fixed costs which are applicable to and normally would have been amortized in all products or services which are multi-year requirements;
 - ii. Allocable portions of the costs of facilities acquired or established

RFQ - Telephone System Maintenance
US Bankruptcy Court - District of Massachusetts
RFQ Requirements

- for the conduct of the work, to the extent that it is impracticable for the Contractor to use the facilities in its commercial work, and if the costs are not charged to the contract through overhead or otherwise depreciated;
- iii. Costs incurred for the assembly, training, and transportation to and from the job site of a specialized work force; and
 - iv. Costs not amortized solely because the cancellation had precluded anticipated benefits of Contractor or subcontractor learning.
- g. The claim shall not include:
- i. Labor, material, or other expenses incurred by the Contractor or subcontractors for performance of the canceled work;
 - ii. Any cost already paid to the Contractor;
 - iii. Anticipated profit or unearned fee on the canceled work; or
 - iv. For service contracts, the remaining useful commercial life of facilities. "Useful commercial life" means the commercial utility of the facilities rather than their physical life with due consideration given to such factors as location of facilities, their specialized nature, and obsolescence.
 - v. This contract may include an Option clause with the period for exercising the option limited to the date in the contract for notification that funds are available for the next succeeding contract year. If so, the Contractor agrees not to include in option quantities any costs of a startup or fixed nature that have been fully set forth in the contract. The Contractor further agrees that the option quantities will reflect only those variable costs and a reasonable profit or fee necessary to furnish the additional option quantities.
 - vi. Quantities added to the original contract through the Option clause of this contract shall be included in the quantity canceled for the purpose of computing allowable cancellation charges.

**RFQ - Telephone System Maintenance
US Bankruptcy Court - District of Massachusetts
RFQ Requirements**

11. Provision 4-155, Evaluation of Price Proposal (OCT 2006)– Multi-Year Contract As prescribed in § 410.75.65(d)

- a. In the event that the judiciary determines prior to award that only the first contract year requirements are needed, offers will be evaluated and award made solely on the basis of prices offered on that year's requirements. The cancellation ceiling shall not be part of the price proposal evaluation.

12. Provision 4-165, Price Proposal Instruction – Multi-Year Contract (OCT 2006) - As prescribed in § 410.75.65(f)

As indicated in Section H, offerors are instructed to provide a separate cancellation ceiling (on either a percentage or dollar basis) for each contract year subject to cancellation. Price proposals must include the rationale and supporting data for each proposed cancellation ceiling. If actual cancellation occurs after contract award, the Contractor will be required to submit a claim with supporting data which will be subject to negotiation. The amounts established in Section H are merely ceilings.

- L. Award** - The government intends to award a single order to the offeror that represents the best value to the government. In selecting the best value, the government will consider the quality offered for the evaluated price. The government will make an assessment of the technical excellence offered and whether it provides added value, added capability or reduced risk.