



STATE OF NEW MEXICO SOLE SOURCE REQUEST AND DETERMINATION FORM

A sole source **determination** is not effective until the **sole source request for determination** has been posted for thirty (30) calendar days without challenge, and subsequently approved in writing by the State Purchasing Agent or, for Professional Services Agreements, the Secretary of the General Services Department. The foregoing requirement is regardless of whether the **sole source request for determination** has been signed by the Agency and/or the Contractor.

I. Name of Agency: Law Offices of the Public Defender

Agency Chief Procurement Officer: Theresa Edwards
Telephone Number: 505-490-5106, Theresa.Edwards@lopdm.us

Agency Contact for this request: Cydni Sanchez
Telephone Number & Email Address: 505-469-4683, Cydni.Sanchez@lopdm.us

II. Name of prospective Contractor: Justice Works, LLC
SHARE Vendor Number (must be active): 0000136410
Address of prospective Contractor:

1216 W. Legacy Crossing Blvd
Suite 200
Centerville, UT 84014-5597

Contact Name, Telephone Number and Email Address: Carl Richey, Chief Executive Officer, 801-294-2848, carl@justiceworks.com

Amount of prospective contract before tax: \$1,600,000

Estimated tax amount (tax is subject to change): \$120,000

Term of prospective contract: July 1, 2023 through June 30, 2027

Note: For terms longer than one year, Request for Policy Exemption from DFA MUST be included.

III. Agency is required to state purpose/need of purchase and thoroughly list the services (scope of work), construction or items of tangible personal property of the prospective contract (if this is an amendment request to an existing contract, include current contract number issued by SPD):

Per-case access to Defender Data software (all services included: case management system, voucher system, and travel reimbursement functionality).

<u>Deliverable Name</u>		<u>Due Date</u>	<u>Compensation</u>
Per Case Access Fee		On-going from 7/1/2023 – 6/30/2027	\$2.80 per opened case in the Justice Works Defender Data application
Task Item	Sub Tasks	Description	
Per Case Access Fee	Universal One- time Fee	<p>“Case” for purposes of the “per case fee” in this contract, refers to any New Mexico state criminal, delinquency, or conditions of confinement proceeding, from the initial filing of a complaint, information, petition, indictment, or other charging document, through the exhaustion of state court remedies (including post-conviction representation), whether assigned to Procuring Agency Public Defender staff or contract counsel, pursuant to the New Mexico Public Defender and Indigent Defense Acts and New Mexico state case law. NMSA 1978, §§ 31-15-1, et seq.; 31-16- 1, et seq.</p>	
	Basic Included Support	<ul style="list-style-type: none"> A. Non-time sensitive support requests by the Agency and Responses by the Contractor will be made via email or phone on the following schedule: Monday through Friday, 6:00 A.M. To 5:00 P.M. MST, excluding national holidays. B. Responses to basic support requests between the above service hours shall be made within three business days. C. Responses to basic support requests after the above service hours shall be made within four business days. D. All response made by the Contractor shall assess severity of the problem and projected time of problem resolution. E. If the Defender Data application should stop operating and/or not accessible to agency users: Problem resolution should not exceed more than 1 business day. F. If the Defender Data application should stop operating and/or not accessible to agency users, the Agency will promptly check local network resources and advise the Contractor of the problem by phone with initial problem assessment. 	
	Reimbursement on cases assessed more than one fee	<p>The contractor will provide a method for discovering these additional charges and provide a credit against future charges.</p>	

Documentation updates	The Contractor will update provided documentation (Online Guides, Systems Administration Guide, User Guide, Product Manual, etc.) to reflect changes made to the system as a result of problem resolution or system improvements to Defender Data.
Fault Tolerance	Systems maintenance should be conducted as needed in order to ensure 99% application availability. Systems maintenance requiring application downtime will be conducted after normal Agency business hours. Agency hours are Monday through Friday, 8:00 A.M. To 5:00 P.M. MST, excluding national holidays.
One-time fee exclusions	Exclusions: <ol style="list-style-type: none"> 1. Enhanced Support: This is upgraded paid support as provided by a support/maintenance contract. 2. Major Requested Expansions: Large code normally providing significant feature additions or complete additive modules.

<u>Deliverable Name</u>	<u>Due Date</u>	<u>Compensation</u>
Dedicated Technical Support	On-going from 7/1/2023 – 6/30/2027	\$10,000/month excluding GRT not to exceed \$6,000,000 over the contract term.

Task Item	Sub Tasks	Description
	Feature Requests, Maintenance Services & Database Enhancement	The Contractor shall provide maintenance, service, and complete enhanced development additions for the LOPD’s Defender Data case management system and all associated data as follows: <ol style="list-style-type: none"> A. Provide as needed maintenance services for Defender Data application, error corrections, and/or data issues. B. Additional major development additions (whole modules) to be completed in 3-6 months of development time depending on scope and complexity. C. Additional minor development additions (additions to existing modules) to be completed within 1-2 months depending on complexity.

IV. Provide a detailed explanation of the criteria developed and specified by the agency as necessary to perform and/or fulfill the contract and upon which the state agency reviewed available sources. (Do not use “technical jargon;” use plain English. Do not tailor the criteria simply to exclude other contractors if it is not rationally related to the purpose of the contract.)

DefenderData was implemented in FY19 to upgrade and replace a legacy case management system, CDMS, developed in FY02 as an alternative to manually tracking client information. DefenderData is a web-based application that allows LOPD staff throughout the state to view client-specific information in real time. DefenderData also allows attorney timekeeping for both in-house and contract attorneys.

In order to maintain access to case files housed within the system, the agency must continue to utilize DefenderData, which is solely the product of JusticeWorks, LLC. The criteria developed and specified by LOPD as necessary to perform this contract is solely the ability of the Contractor to provide and maintain per-case access to the web-based DefenderData software application (all services included: case management system, voucher system, travel reimbursement functionality, basic technical support, attorney timekeeping). JusticeWorks, LLC is the only supplier authorized to provide access to, and basic technical support for, the DefenderData software application as it is proprietary. Therefore, no other source is available.

- V. Provide a detailed, sufficient explanation of the reasons, qualifications, proprietary rights or unique capabilities of the prospective contractor that makes the prospective contractor ***the one source*** capable of providing the required professional service, service, construction or item(s) of tangible personal property. (Please do not state the source is the “best” source or the “least costly” source. Those factors do not justify a “sole source.”)

JusticeWorks, LLC is the engineer and owner of the DefenderData software application LOPD utilizes. DefenderData is a proprietary system developed and configured by JusticeWorks, LLC for LOPD’s use. All technology used to develop DefenderData is unique and solely understood by JusticeWorks, LLC and must be maintained, configured, and supported by JusticeWorks, LLC in order to maintain the application’s functionality and integrity.

- VI. Provide a detailed, sufficient explanation of how the professional service, service, construction or item(s) of tangible personal property is/are ***unique and how this uniqueness is substantially related to the intended purpose of the contract.***

Per-case access to web-based DefenderData software (all services included: case management system, voucher system, travel reimbursement functionality, basic technical support, attorney timekeeping) is unique because it is an access right to a proprietary software application. This uniqueness is substantially related to the intended purpose of the contract, which is to allow LOPD’s use of the DefenderData software application. JusticeWorks, LLC is the only software company authorized to provide access to, and basic technical support for, the DefenderData application as it is a proprietary software application. Therefore, no other source is available.

The LOPD requires contractual support from a supplier to ensure access, functionality, productivity, usability and operability of the DefenderData software application. The criteria necessary to perform this function requires entering into a contractual relationship with JusticeWorks, LLC, as they are the producer and owner of the DefenderData software application.

- VII. Explain why other similar professional services, services, construction or item(s) of tangible personal property ***cannot*** meet the intended purpose of the contract.

LOPD is unable to contract with a similar company as DefenderData is a proprietary

software application owned and supported solely by JusticeWorks, LLC.

VIII. Provide a narrative description of the agency’s due diligence in determining the basis for the procurement, including procedures used by the agency to conduct a review of available sources such as researching trade publications, industry newsletters and the internet; contacting similar service providers; and reviewing the State Purchasing Divisions’ Statewide Price Agreements. Include a list of businesses contacted (***do not state that no other businesses were contacted***), date of contact, method of contact (telephone, mail, e-mail, other), and documentation demonstrating an explanation of why those businesses could not or would not, under any circumstances, perform the contract; or an explanation of why the agency has determined that no businesses other than the prospective contractor can perform the contract.


This is a renewal of per-case access and dedicated technical support for a current proprietary software solution. LOPD has deployed and used this solution since FY19 and the department depends on the solution being maintained and supported to meet its constitutionally mandated work requirements. The impact of not renewing this agreement will result in the loss of the use of the system, criminal case data, updates, security patches, technical support and training.

As the creators of the proprietary solution, JusticeWorks is the only vendor that can support the department’s case management system.

LOPD obtained documentation confirming that the DefenderData software application is owned and solely supported by JusticeWorks, LLC. No other vendor can offer these services or products.

Certified by:

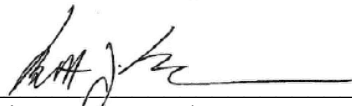
Date: 4/26/2023



Agency Chief Procurement Officer

Agency Approval by:

Date: 4/26/2023



Cabinet Secretary/Agency or Entity Head or Designee

STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND
FINANCIAL CONTROL DIVISION
REQUEST FOR POLICY EXEMPTION

Check the appropriate policy request:

New Exemption Existing Exemption Exemption Number 3

State the DFA/FCD policy, procedure, or memorandum from which you are requesting an exemption:

FIN 4.12 - Sole Source Procurement, 13-1-126 NMSA 1978

State the exemption requested and provide a complete justification:

BU 28000 is requesting an exemption to procure services under a sole source contract with a term of four years.

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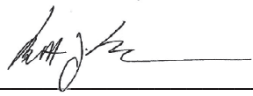
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The LOPD requires contractual support from the supplier to ensure access, functionality, productivity, usability and operability of the DefenderData software application. The criteria necessary to perform this function requires entering into a contractual relationship with JusticeWorks, LLC, as they are the producer and owner of the DefenderData software application.

LOPD is unable to contract with a similar company as DefenderData is a proprietary software application owned and supported solely by JusticeWorks, LLC.

Fund Code 17510 **Business Unit** 28000 **Department** 0104000000

Date Exemption Requested for: June 30, 2027

Signed by Requesting Authority:  **Date:** 04/06/2023
(Cabinet Secretary/Agency Director)

For FCD Use Only

Approved by:  **Date:** 4.12.2023
(Financial Control Division Director)

Expiration Date: 6.30.2027



Justice Works, LLC
1216 Legacy Crossing
Suite 200
Centerville, UT 84014
801-203-3554
www.justiceworks.com

April 26, 2023

New Mexico Law Offices of the Public Defender (LOPD)

Procurement Division

Contracting Officer,

This letter is to confirm that defenderData is a sole source product, designed, built, sold and distributed exclusively by Justice Works, LLC. The product must be purchased directly by institutions from Justice Works, LLC and there are no agents or dealers authorized to sell, represent, or support this product.

If you desire additional information, don't hesitate to contact me directly at 385-626-2165 at any time or via email at ian@justiceworks.com.

Sincerely,

Ian Ericson

Ian Ericson
Director of Operations
Justice Works, LLC