

New Hampshire Judicial Branch Online Dispute Resolution – Request for Information

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1. Introduction

The New Hampshire Judicial Branch (NHJB) is seeking information from vendors about the vendor's Online Dispute Resolution (ODR) products and services. Responding Vendors are encouraged to provide best practice solutions and recommendations regarding NHJB's anticipated ODR pilot in addition to describing their system's capabilities. All vendor submissions that follow the ***Request for Information (RFI) Process*** described below will be reviewed by ODR Program team members.

Request for Information (RFI) Process

Issue Date: May 9, 2019

Questions Due By: May 15, 2019 at 4:30 PM Eastern

RFI Due Date: May 24, 2019 at 12:00 PM Eastern

RFI Must Be Received At: jwaters@courts.state.nh.us

**Online product demonstrations
(If requested):** May 28 – May 30, 2019

Please be advised that all notifications, releases and amendments associated with this RFI will be posted at:

<https://www.courts.state.nh.us/aoc/rfps/index.htm>

NHJB will post any and all notifications and amendments associated with this RFI. They will not be emailed directly to any vendor. Vendors are encouraged to periodically check <https://www.courts.state.nh.us/aoc/rfps/index.htm> for any RFI updates.

This is a Request for Information only. This RFI is issued solely for information and planning purposes – it does not constitute a Request for Proposal (RFP) or a promise to issue an RFP in the future. This RFI does not commit the NHJB to contract for any materials or services whatsoever. Respondents are advised that NHJB will not pay for any information or administrative costs incurred in response to this RFI; all costs associated with responding to this RFI will be solely at the interested party's expense. No vendor will be selected, pre-qualified, or exempted based on their RFI participation.

Vendors should also be aware that all content provided to the NHJB in response to this RFI should be construed as public information and that it may be made available to others without prior consent from the respondent.

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Any vendor requiring clarification of any section of this RFI or wishing to comment or take exception to any requirements or other portion of the RFI must submit specific questions in writing no later than May 15, 2019 at 4:30 p.m. Questions may be emailed to jwaters@courts.state.nh.us. Responses to questions will be posted at:

<https://www.courts.state.nh.us/aoc/rfps/index.htm>

Every effort will be made to have responses available soon after the question period ends, contingent on the number and complexity of the questions.

Any objection to the RFI that is not raised in writing on or before the last day of the question period is waived.

Online Dispute Resolution Pilot

NHJB seeks to expand its current Alternative Dispute Resolution (ADR) services with the development of an integrated ODR system to pilot for Small Claims cases. The expanded service will provide a mechanism for the public to participate in ODR services that have been incorporated into the current process for e-filing and adjudicating small claims complaints in the state of New Hampshire. ODR for Small Claims will also serve as a pilot for possible expansion of ODR into other case types.

Small Claims in New Hampshire

In New Hampshire, “Small Claims” is defined by RSA 503 as any civil claim for \$10,000 or less. Attorney representatives are permitted in small claims actions, and non-attorney representatives of businesses are also permitted. In 2015, 95% of defendants and 49% of plaintiffs were self-represented litigants (SRLs) in their small claims case. The Sample Court District Division currently handles approximately 14,000 original and 7,000 reopened small claims cases per year. If a defendant requests a court hearing, they are scheduled for a Pre-Trial Conference. If a defendant confesses judgement or does not respond to the complaint, they are scheduled for a Payment Hearing.

The NHJB implemented mandatory, state-wide small claims e-filing for self-represented litigants (SRLs) and attorneys in 2014. Nearly 50,000 cases have been filed since inception, and less than one percent of cases are initiated with a request to opt out of electronic filing. The court utilizes 113 judicial and court staff in 32 courts (including centralized e-filing and Information Centers staff) to facilitate the current processes, which were designed when e-filing went into effect in 2014 and are regularly evaluated and revised as necessary. Current metrics indicate that Time to Disposition for Small Claims cases has decreased 22%.¹

See “**3 Current Situation**” in Appendix B for more information on the systems and processes in place today that support mandatory e-filing. The NHJB does NOT desire to replace any of these

¹ Reducing this metrics further is currently NOT a goal of the ODR Pilot for Small Claims.

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existing systems in order to add ODR services. Rather, the NHJB seeks to augment and integrate ODR technology into the current e-filing platform.

Alternative Dispute Resolution and Mediation

The NHJB has a current practice of requiring/offering mediation for cases scheduled for a Pre-Trial Conference (approximately 1,500 per year). For small claims cases scheduled for a Pre-Trial Conference, claims between \$5,000 and \$10,000 are required to attend mediation, and claims under \$5,000 are given the option to attend mediation. In 2018, the NHJB oversaw approximately 1,400 mediations in small claims cases scheduled for Pre-Trial Conference, indicating that the majority of cases scheduled for a pre-adjudicatory court hearing attend mediation. ODR will enhance this requirement/offering.

NHJB will also offer ODR to defendants who confess judgment and need to negotiate a payment plan. This is a new ADR offering; parties who confess judgment have not been eligible for mediation previously. NHJB estimates this will expand ADR to another 3,000 cases.

ODR Program Goals

NHJB envisions incorporating an ODR solution into the existing small claims e-filing and electronic case processing systems. SRLs and attorneys use TurboCourt and Odyssey File & Serve (OFS) respectively to file their response to a complaint after receiving notice of a complaint in the mail. By seamlessly incorporating ODR into electronic filing, NHJB believes the ODR participation rate will be substantially higher than providing “stand-alone” ODR capability. The intended Program goals are:

- Reduce Failure to Appear rates for Pre-trial Conferences and Payment Hearings,
- Reduce judge time spent on Pre-trial Conferences and Payment Hearings,
- Decrease the number of Payment Hearings needed,
- Provide start-to-finish services for filers that are a viable means for parties to resolve disputes prior to/instead of coming to court for hearings,
- Support the procedural needs/requirements of the court and court users in the form of streamlined court case processing,
- Provide useful information to individuals about their legal rights and responsibilities,
- Extend hours of access to negotiation and mediation resources,
- Assist individuals in gathering relevant information related to their case and help individuals understand their options, and
- Facilitate access to justice by eliminating the need for those with particular challenges—such as poor health, disabilities, caregiving responsibilities, etc.—to come to a physical court building for resolution.

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2. Purpose for RFI

The NHJB is issuing this Request for Information (RFI) to solicit information regarding features, functionality, and related matters pertinent to ODR services for attorneys, SRLs, and other non-attorney e-filers such as business entities. NHJB envisions this RFI to further inform its business case for moving forward with an ODR Pilot for e-filed small claims cases.

NHJB may also incorporate responses to this RFI into specifications in a formal Request for Proposal (RFP). Neither the NHJB nor the Responding Vendor has any obligations under this RFI, nor is responding to the RFI a prerequisite for any vendor to participate in the RFP process. The RFI is issued as a means for discovery and information gathering. It should not be construed as a solicitation or obligation on the part of the NHJB to purchase products or services from any Responding Vendor.

3. Information Requested

Cover Page

The first page of the vendor's RFI Response must be a cover page displaying at least the following:

1. Response of RFI Title
2. Vendor's Name
3. Contact Person
4. Telephone Number
5. Address
6. Email Address

All subsequent pages of the RFI Response must be numbered. Additional documentation supporting responses is welcome. Final versions must include an index of all materials and an index of external links.

RFI Response

NHJB is interested in widening its current understanding of ODR products and services to include innovative and creative solutions that champion alternative approaches that will satisfy the **ODR Program Goals** listed on page 3. Minimally, responses should cover four subject areas:

1. Organizational Capabilities and Strengths
2. Preferred System Requirements
3. Engagement
4. Pricing

The questions for each category are listed below and can be utilized to prepare your response. Additional detailed information in the Appendices B-D provide further context for formulating responses.

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Organizational Capabilities and Strengths

1. How long has your organization provided ODR solutions?
2. Who is your primary customer base?
3. If your organization has limited experience in working with courts and/or ODR for small claims, please describe your approach for bridging this gap.
4. List and briefly describe currently available products and services that support the NHJB's ODR vision.
5. Identify future features and functionality on your product roadmaps and advise on the target timeframe to release them.
6. If your company's product and/or services cannot currently match the NHJB vision, what alternatives would you recommend?

Preferred System Requirements

The court requires a solution that will facilitate procedurally fair and legally just online resolution of Small Claims cases. Requirements of particular interest are ODR systems that:

- Provide seamless access to an "ODR Module" from the current TurboCourt and File & Serve EFSPs.
- Offer NHJB's fillable agreement forms that can be easily e-filed using NHJB's current e-filing platform.
- Enable ODR participants to upload relevant .pdf, Word, and selected images files, and documents as a component of their ODR dialog.
- Allow parties to request a neutral third party to participate in the negotiation at any point in the process.
- Provide access to and ownership of a robust data set of all ODR activity that will enable NHJB to assess the system and the process effectiveness.
- Are vendor hosted with 24 x 7 x 365 availability with minimal downtime (beyond routinely scheduled maintenance).
- Include 24/7 Customer Support (for ODR participants including NHJB ADR mediators) and Technical Support (Monday – Saturday, 8 AM – 8 PM EST) to NHJB IT and court staff.

Engagement

Describe how your organization will work with court personnel and its external stakeholders to accomplish the following tasks:

1. Identify and engage key stakeholders (the public, court personnel, local bar association, partner agencies, etc.) that would be served by or impacted by the implementation of ODR.
2. Work with key stakeholders to establish objectives for ODR.
3. Work with key stakeholders to document current paper and/or system processes, documents, points of interaction, and outcomes.
4. Identify process redundancies, inefficiencies, bottlenecks, and constraints.
5. Recommend a problem resolution process.
6. Recommend commercial off-the-shelf (COTS) technologies to facilitate the proposed resolution process.

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7. Identify potential integration points with existing case management system.
8. Work with designated court personnel and key stakeholders to develop and execute a project plan.

Pricing

Describe the proposed solution in terms of cost. Identify creative approaches beyond traditional transactional fee model. Describe enterprise pricing, if available.

Additional RFI Response Information

In addition, NHJB would appreciate responses to any and all applicable questions listed in Appendix A as these provide a level of detail in areas of keen interest to NHJB. Answers to Appendix A – Additional RFI Responses should use the Word template provided with this RFI.

Appendix A – Additional RFI Responses

The remaining questions in this RFI are provided to a) guide your general response as requested in **3. Information Requested** and b) help NHJB further understand the technology and services that are available in the ODR marketplace. NHJB intends to use this additional information in order to craft a sounder ODR vision and pilot for the NHJB. ***A brief response to any or all items as applicable for your organization is greatly appreciated.***

- 1) Case types
 - a) Provide a list of case types your organization currently has implemented with other court jurisdictions and other customers.
- 2) Triage
 - a) Describe how the proposed solution helps a user triage a problem, facilitates triage by the court, and guides the participant to the correct path (guided interview).
- 3) Negotiation and Mediation
 - a) Describe how the proposed solution helps shape constructive communication between parties.
 - b) Does the proposed solution provide a secured negotiation platform between opposing parties? If yes, please describe (chat, video, synchronous, asynchronous, private chat, etc.).
 - c) Describe if/how the proposed system detects and neutralizes inflammatory language.
 - d) Does the proposed solution have interfacing capabilities with third-party mediation services? If yes, please describe.
- 4) Streamlining
 - a) Describe how you anticipate the proposed solution improves existing processes. Provide your response in terms of Current State (see Appendix B) and Future State (see Appendix C).
- 5) Payment
 - a) Describe how the proposed solution:
 - i) Helps parties understand a defendant's ability to pay and any exempt income sources.
 - ii) Helps parties determine an appropriate payment schedule.
- 6) Transparency
 - a) Identify system processes and algorithms that impact decision-making.
- 7) Data
 - a) Identify data collection points in the resolution process.
 - b) Can users triage an issue without providing personal identifying information?
 - c) Describe data ownership.

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- d) How long is data retained, by whom, and where?
 - e) What data retention and destruction policies are in place and how are they enforced?
 - f) Can data be accessed by litigants after a case is closed? If so, for how long?
 - g) Are any private and public data co-mingled? If so, what security controls are in place to prevent unauthorized disclosure?
- 8) Metrics
- a) Describe how data are used to inform decision-making algorithms and improve processes.
 - b) What data elements are necessary, how they will be captured, and what mechanisms are employed to ensure good data hygiene?
 - c) What reporting tools are included?
 - d) What information can be gleaned to help meet objectives?
- 9) Privacy and Security
- a) Explain the proposed solution’s data protection, security, redundancy, and disaster recovery mechanisms.
 - b) If the vendor utilizes a cloud provider, what are the vendor’s privacy and security policies and processes?
 - c) Is a cybersecurity incident recovery plan in place, and if so, what is the victim notification policy and process?
 - d) Describe adherence to standards such as NIST and laws such as GDPR.
- 13) Communications
- a) How does the system facilitate communications and negotiations (chat, video, synchronous, asynchronous, private chat, AI, etc.)?
 - b) Does the proposed solution provide configurable, multi-channel customer support platform, integrating online chat, call center, and ticketing services?
 - c) Does the proposed solution offer configurable chat bots?
 - d) Is the proposed solution ADA accessible compliant? Identify the scale of compliance to this and/or other federal standards.
 - e) Does the proposed solution allow for interpreter participation and if so, how?
- 14) Documents
- a) What automated processes could reduce forms requirements, and how could the implementation address both current and future documentation requirements?
 - b) Does the system support electronic signatures?
 - c) Does the proposed solution provide document assembly/intelligent fillable forms services?
 - d) Does the system support electronic submission of .pdf, .jpeg, .tiff, or other documents?
- 15) ODR Integration
- a) Among those listed below, Indicate how the proposed solution supports integration:

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- i) Partial Integration – the ODR system relies on certain case management system data
- ii) Full Integration – the ODR system is seamlessly integrated into the court’s processes for electronic filing and case management.
- iii) Pre-trial/Standalone – the ODR system helps parties resolve disputes instead of filing a legal action
- iv) Legal Services Marketplace – ODR is a platform to provide access to legal services
- v) Extra-judicial – the proposed solution operates without an direct connection to the courts.

16) Standards

- a) How does the proposed solution adhere to ODR technical and ethical standards?

17) Support

- a) What are the automated and human technical and user support mechanisms for both court personnel and the public? Include hours/days of coverage.

18) Net Promotor Scoring

- a) How the proposed solution quantifies and utilizes net promotor score?

19) Usability tracking

- a) How the proposed solution tracks and analyzes bounce rates, resolution rates (including resolution before a formal case is filed), and cases that fail to progress?

20) Technology

- a) Describe the technologies the solution uses – platforms, architecture, databases, etc.
- b) What browsers are preferred? What browsers are compatible with this product?
- c) What are the minimum system standards required to operate the solution?
- d) Does the solution offer a mobile device-friendly interface?

21) Project Implementation

- a) Describe your organization’s implementation methodology.
- b) How does your organization follow a human-centered design process?
- c) Can your organization support observational user testing?

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Appendix B – Current Situation

Please refer to Appendix C for a pictorial representation of the NHJB’s e-filing and court case management platform. The following content describes system components and capabilities in more detail.

Case Management

NHJB uses Odyssey CMS from Tyler Technologies. Currently version 2014.3.42 is in production, and NHJB anticipates running Odyssey 2018.n.n in production by Q1 2020. Court staff and judges use Odyssey document paths and workflow queues to process and route electronically filed documents.

e-Filing Service Providers (EFSP) and Electronic Filing Manager (EFM)

Self-represented litigants use TurboCourt to complete a guided interview. This system automatically generates forms required for a small claims complaint and/or response based on the responses to the interviews. TurboCourt also assists filers with e-filing related case documents such as motions, objections, etc. TurboCourt is integrated into the CMS via Odyssey File & Serve (OFS).

Electronic filing is mandatory for all case parties; however, a filer may file a motion (in paper) to opt out of electronic filing. Currently less than one percent of small claims cases contain an “opt out” request. Incarcerated persons are automatically exempt from electronic filing.

Attorneys use OFS to e-file case documents. In addition to using OFS as the attorney EFSP, NHJB uses this system component as the EFM for CMS integration, clerk review, and electronic service.

Forms

All NHJB forms are available as fillable PDF documents located on the NHJB website (“Webster”): <https://www.courts.state.nh.us/index.htm>. Small claims forms are located here: <https://www.courts.state.nh.us/district/forms/index.htm>.

As previously noted, SRLs primarily use TurboCourt to complete a guided interview which will automatically generate the necessary forms. If applicable, TurboCourt will also assist SRLs with identifying and completing additional documents that may need to be attached and uploaded.

Electronic Services/Customer Support

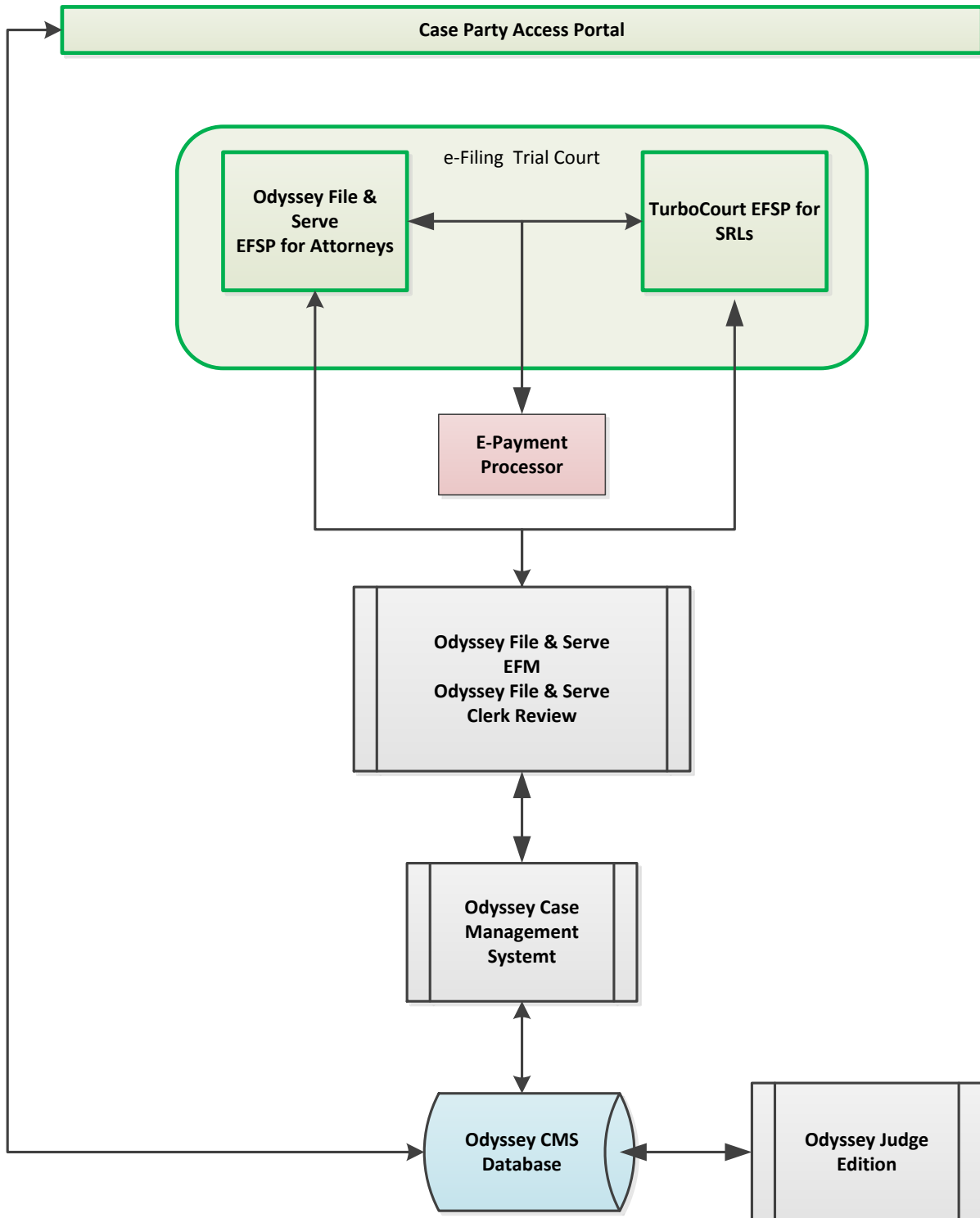
NHJB utilizes an online information repository to aid filers. Plain language information sheets, checklists, and step-by-step instructions are some of the resources available to all filers. Videos and voice-over PowerPoint demonstrations help filers understand court processes and how to use e-filing systems. Information is organized according to case type starting from a general Electronic Services portal page: <https://www.courts.state.nh.us/nh-e-court-project/electronic-services.htm>

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NHJB also staffs an Information Center for anyone to call with questions about filing, e-filing or about their case in general. It is staffed during business hours (8 a.m. – 4 p.m.) by very knowledgeable staff. Electronic filers may also seek assistance from the NHJB e-Filing Center. The staff is highly trained on the NHJB e-filing systems and on cases management processes and procedures. Over the phone, they are able to “walk” filers through electronic filing step-by-step until the process is complete.

Every courthouse in NH has one or more e-filing kiosks conveniently located in the court lobbies. Specially trained court staff is assigned to a “kiosk assister” role, and their job is to come out from behind the counter see if someone needs assistance, then to sit with litigants who require assistance in using the kiosk to complete court filings.

Appendix C – Current State



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Appendix D – Future State

