

IFB # 1106 Qualified Individual Services (Round 2)



**Office of Children
and Family Services**

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**New York State
Office of Children and Family Services
Division of Juvenile Justice and Opportunities for Youth**

INVITATION FOR BIDS

IFB # 1106

Qualified Individual Services (Round 2)

Issued: 9/21/2022

BID DUE DATE: 10/26/2022 by 4:00 p.m. Eastern Time

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1. **Introduction**

The New York State Office of Children and Family Services (OCFS) operates the state's residential juvenile justice programs. The OCFS Division of Juvenile Justice and Opportunities for Youth (DJJOY) operates the residential programs and Community Multi-Service Offices (CMSOs) for juvenile delinquents, juvenile offenders, and adolescent offenders and is issuing this Invitation for Bids (IFB).

OCFS is seeking licensed clinicians to provide Qualified Individual (QI) assessments of OCFS-placed juvenile delinquent youth in identified regions and statewide in accordance with the federal Family First Prevention Services Act (FFPSA) and corresponding New York State standards.

OCFS is releasing a Round 2 solicitation, seeking additional providers for Qualified Individual Services. Individuals and entities who received awards in the previously released IFB #1085 solicitation for Qualified Individual Services, are not eligible to bid on any of the same regions that they received an award. Any bid(s) received from a responder that includes a region previously awarded, will result in that portion of the bid being disqualified. Any new region will be considered.

Please Note: Preferably, all services are to be delivered in-person. When completing QI assessments, every effort should be made to meet with parents/guardians in person, as in-person meetings are the best form of communication and assessment. Some parents may be hesitant to meet in person for various reasons, and their wishes need to be respected. Additionally, there may be circumstances where in-person visits are not feasible, therefore, OCFS reserves the right to allow virtual services at its sole discretion. **OCFS has the sole discretion to allow virtual services, and such determination will be based upon the best interest of the state and the wellbeing of OCFS-placed youth. Virtual services for the purposes of QI assessments include both video and/or telephone contact. Phone contact will only be appropriate when both in-person and video interviews are not feasible. Prior OCFS approval must be requested by contractors and approved by OCFS to utilize virtual services. Sections 3.2 Product/Service Specifications and 3.3 Delivery** of this IFB reference virtual services and all required services for youth.

OCFS is responsible for the supervision, custody, and care of youth in the juvenile justice system who have been determined to require an out-of-home placement. OCFS has custody of various youth, including:

- Youth placed at an OCFS limited secure or non-secure facility by a local Family court judge following adjudication and disposition of placement; and
- Youth placed at a voluntary residential facility by a local family court judge following adjudication and disposition of placement with OCFS; and
- Youth charged as juvenile offenders and sentenced to OCFS custody by a youth part judge post-conviction; and

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- Adolescent offenders who have been sentenced to OCFS custody by a youth part judge post-conviction.

The New York State Family Court Act § 351.1 authorizes the county probation department to conduct investigations and collect diagnostic assessments while making a placement recommendation to the court. OCFS's role is to review assessments and provide information on available OCFS services and programs upon request to the probation department based on the needs of the youth. If placement is recommended, the court must follow Family Court Act § 352.2(2)(a) to identify the least restrictive environment that meets all the youth's needs and promotes community safety.

Placements from least to most restrictive are listed below:

- The youth is placed in the custody of a parent, relative, or other suitable adult.
- The youth remains in the community under the supervision of county probation.
- The youth is directly placed in a Voluntary Agency's (VA) Qualified Residential Treatment Program (QRTP) through local districts of social services (LDSSs) or Administration for Children's Services.
- The youth is placed with OCFS for placement in a VA's QRTP pursuant to Family Court Act § 353.3(4).
- The youth is placed in an OCFS-operated facility (non-secure, limited secure, or secure facility).

Youth who are placed in OCFS care and custody require innovative interventions and creative solutions to repair and restore family and community relationships. They exhibit high needs and a broad array of risk factors, which include living in high crime areas, pervasive gang involvement, human trafficking, and an increased likelihood of experiencing severe trauma. All youth placed with OCFS have an integrated multi-disciplinary support team. This team, in partnership with the youth, caregiver, and other stakeholders, review these risks, needs, and protective factors to employ strategies to safely transition youth back into their community. For some of these youth, OCFS may recommend placement in a QRTP to assist with this transition. FFPSA requires a QI assessment by a licensed clinician for any youth to enter a QRTP.

1.1 Overview

DJJOY is responsible for the supervision and treatment of court-placed youth from intake to facility programming and community service provision. DJJOY supports and monitors facility-based operations and programs, as well as community services and a range of community-based programs.

DJJOY is directed by a deputy commissioner assisted by three associate commissioners: one for community partnerships, a second for facilities

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management, and a third for youth programs and services. DJJOY is directly responsible for the operation, supervision, and management of nine residential facilities, the treatment programs and services provided within the facilities, and CMSO programs. DJJOY has eight CMSOs and one satellite office responsible for the provision of services to youth and families from the first day of placement. CMSO staff provide support to the family while the youth is in residential placement and when the youth is released to community supervision. CMSO case managers also provide support and community supervision for OCFS youth placed in VA QRTPs. CMSOs are located statewide and include community case managers, community clinicians, intake workers, court liaisons, youth division aides, and other service providers who work closely with the youth's multi-disciplinary support team. The goal is to provide services to the youth and their family from the first day of a youth's placement with OCFS until the youth's placement is formally discharged.

Awardees will perform a QI assessment of the youth's strengths and needs using a federally approved, age-appropriate, evidence-based, validated, and functional assessment tool, specifically, the Child and Adolescent Needs Assessment-NY (CANS-NY). The QI assessment will determine if the youth's needs can be met by family members, a foster family home, and/or a QRTP level of care. The FFPSA requires a QI assessment to make determinations, including, but not limited to, whether the placement in the QRTP is appropriate for the youth being assessed. Awardees will provide QI assessment services pursuant to the Family First Prevention Services Act ([FFPSA](#)) [P.L. 115-123]. Awardees will use an instrument that has been approved by the federal government as part of the NYS Title IV-E State Plan for use in the 30-day QI assessment. Currently, the Child and Adolescent Needs and Strengths-New York (CANS-NY) and the Child and Adolescent Services Intensity Instrument (CASII) are the instruments federally approved for use in NYS.

For purposes of this IFB, QIs must use the CANS-NY as a number of youths may already have a previous CANS-NY QI assessment that can be used for indicating a change in needs or strengths. Also, many youths may need a CANS-NY QI assessment in the future, so this will help to standardize QI assessments across different systems such as juvenile justice, child welfare, and health homes.

OCFS anticipates the need for approximately 2,400 additional hours for QI assessments. OCFS will utilize a regional framework for awarding contracts. There will be ten regions (including one statewide region) encompassing all counties where our youth reside. Additional contracts will be awarded for the following regions:

1. **Western New York**: Consists of the following counties: Niagara, Erie, Chautauqua, Cattaraugus, Allegany, and will require up to 360 assessment hours. There will be up to two awards for this region.

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2. **Finger Lakes**: Consists of the following counties: Orleans, Genesee, Wyoming, Monroe, Livingston, Wayne, Ontario, Yates, Seneca, and will require up to 300 assessment hours. There will be up to two awards for this region.
3. **Southern Tier**: Consists of the following counties: Schuyler, Tompkins, Tioga, Broome, Chenango, Delaware Cayuga, Steuben, and will require up to 60 assessment hours. There will be up to two awards for this region.
4. **Central New York**: Consists of the following counties: Cayuga, Oswego, Onondaga, Cortland, Madison, Otsego, and will require up to 60 assessment hours. There will be one award for this region.
5. **North Country**: Consists of the following counties: Jefferson, Lewis, St. Lawrence, Franklin, Clinton, Essex, Hamilton, and will require up to 60 assessment hours. There will be up to two awards for this region.
6. **Mohawk Valley**: Consists of the following counties: Otsego, Oneida, Herkimer, Fulton, Montgomery, Schoharie, and will require up to 60 assessment hours. There will be one award for this region.
7. **Capital District**: Consists of the following counties: Warren, Washington, Saratoga Schenectady, Rensselaer, Albany, Greene, Columbia, and will require up to 180 assessment hours. There will be up to three awards for this region.
8. **Hudson Valley**: Consists of the following counties: Sullivan, Orange, Ulster, Dutchess, Putnam, Westchester, Rockland, and will require up to 180 assessment hours. There will be up to three awards for this region.
9. **Long Island**: Consists of the following counties: Nassau, Suffolk and will require up to 900 assessment hours. There will be up to five awards for this region.
10. **Statewide**: A statewide category has been established for contingency management purposes to deploy certified QIs to areas where there is an unusually and unanticipated high volume of assessments needed and/or a lack of certified QIs available. Contract awardees in the Statewide category will be expected to provide assessments at OCFS's request, on an as needed basis regardless of region. These applicants will be reserved as backups to all regions should the need arise. This category will require up to 240 assessment hours. There will be up to three awards for this category.

Prospective offerors may bid on one or more of the above identified regions. Awardees will be placed in order of preference based on the lowest to highest hourly rates with awards going to the lowest rate vendors as mentioned below.

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Assignments to fill OCFS QI assessment services will occur in the following manner: When the need arises to fill QI assessment services, OCFS will request services from all awardees in the region(s) where service(s) are needed and allow 24 hours for awardees to respond that they are available to provide the services in the timeline required. Awardees from Round 1 and Round 2 will all be consolidated and solicited at the same time with no preference as to which round, they were awarded. After the 24-hour period has elapsed, the lowest cost awardee indicating that they are available to perform the assessment will be chosen first to perform QI assessment services. If there are multiple awardees with the same rate, the responder that replied first will receive the assignment.

1.2 **Designated Contacts**

In compliance with the Procurement Lobbying Law, from the issuance of this IFB until contractors are selected, all contacts with OCFS personnel concerning this IFB, except as otherwise specified in **Section 4.19 Procurement Lobbying Act**, must be made via email to the Procurement Unit at RFP@ocfs.ny.gov. Please reference **IFB # 1106 Qualified Individual Services (Round 2)** in the subject line of all correspondence.

The issuing office named below is the sole point of contact for matters related to this IFB.

New York State Office of Children and Family Services
Bureau of Contract Management – Procurement Unit
52 Washington Street, Room 202 South
Rensselaer, NY 12144
RFP@ocfs.ny.gov

1.3 **Calendar of Events**

The table below outlines the schedule for important action dates.

EVENT	DATE
Invitation for Bid (IFB) issued	9/21/2022
Deadline for Submission of Offeror Questions	10/5/2022 by 4:00 p.m. Eastern Time
Responses to Questions published <i>(on or about)</i>	10/12/2022
Bid Due Date & Time/Bid Opening Date	10/26/2022 by 4:00 p.m. Eastern Time
<i>Anticipated Contract Date</i>	No earlier than 12/1/2022 and no later than 2/1/2023

1.4 **IFB Questions and Clarifications**

All questions regarding this IFB, including questions regarding the minimum qualifications and specifications, must be emailed to the designated contact identified in **Section 1.2 Designated Contacts** by the date and time indicated in **Section 1.3 Calendar of Events**. All questions and requests for clarification of this IFB should cite the particular IFB section and paragraph number.

Questions submitted after the deadline indicated may not be answered. An Offeror is strongly encouraged to submit questions as soon as possible. Answers to all questions of a substantive nature will be provided to all prospective offerors in the form of a question and answer document which will be posted to both the New York State Contract Reporter website (<https://www.nyscr.ny.gov>) and OCFS public website (<https://ocfs.ny.gov/main/contracts/funding/>) and will not identify the offeror asking the question.

2. **Bid Submission**

2.1 **Instructions for Bid Submission**

Only bids from offerors who furnish all required information and meet the mandatory requirements stated in **Section 3 – Specifications** will be considered.

Bidders must operate in accordance with all applicable laws, rules, and regulations.

All bids must be submitted Electronically by email to RFP@ocfs.ny.gov by the Bid Due Date and time set forth in Section 1.3 – Calendar of Events. The email subject line should include the following information: IFB # 1106 Qualified Individual Services (Round 2). If bid requires files be sent in multiple emails, indicate the email number, e.g., 1 of 2. No facsimile or hard copy bids will be accepted. **Bid submissions for this procurement should only contain bid proposals for this specific funding opportunity and only submit one proposal per vendor.**

Bid proposals must be attached to the email in a manner that results in the electronic document(s) being transmitted with the email. The bid proposal must be received by OCFS secure email servers to be considered properly received. Clickable links to download the bid proposal and/or the use of 3rd party hosting services are not permissible as the bidder's email submission is not transmitting the electronic document(s) of the bid proposal to OCFS.

OCFS will provide a confirmation email that the bid has been received.

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Electronic bids must contain the information and bid submission formats and forms requested herein, or attached hereto, under the terms and conditions of this solicitation. Bids that cannot be read, or are incomplete, or that contain any omissions, erasures, alterations, additions, or items not required by the IFB or that contain irregularities of any kind may be rejected. All costs associated with the preparation of a bid are the responsibility of the Bidders and cannot be charged to OCFS. Bidders may modify, in writing, the content of any bid at any time prior to the bid due date and time, however a complete re-submission of all bid documents is required. OCFS will not substitute sections of a bid. The email should state that previous bid(s) submitted are withdrawn. If this is not clear in the email, OCFS will only consider the latest bid submitted for award. Bids may be withdrawn or canceled before the bid due date and time.

Contractors may not begin to provide services prior to the contract start date; OCFS has no obligation to pay for services prior to that time. Payments cannot be made prior to the formal execution of a contract.

Offerors assume all risks for timely, properly submitted electronic bids.

LATE BIDS MAY BE REJECTED

Any bid, or portion of a bid if bid is submitted in multiple emails, that is received at the RFP@ocfs.ny.gov email after the Bid Due Date & Time in **Section 1.3 – Calendar of Events** will be considered a *late bid*. A late bid may be rejected and disqualified from award. Notwithstanding the foregoing, a late bid may be accepted in the Commissioner's sole discretion where:

- (i) no timely bids meeting the requirements of the solicitation are received; or
- (ii) the offeror has demonstrated to the satisfaction of the Commissioner that the late bid was caused solely by factors outside the control of the offeror.

However, in no event will the Commissioner be under any obligation to accept a late bid. The basis for any determination to accept a late bid shall be documented in the procurement record.

FIRM OFFER

Bids must remain an effective offer, firm and irrevocable, for at least 120 calendar days from the due date, unless the time for awarding the contract is extended by mutual consent of OCFS and the offeror. A bid shall continue to remain an effective offer, firm and irrevocable, subsequent to such 120 calendar-day period until either tentative award of the contract(s), withdrawal of the procurement, or withdrawal of the bid in writing by the offeror.

OWNERSHIP OF IFB AND BIDS

This IFB remains the property of the state at all times, and all responses to this IFB, once received, become the property of the state.

2.2 Packaging of IFB Response

Required Contents of Bid Proposal

Please be aware that although bids must be submitted electronically, any required bid proposal document that requires a notarization must be obtained by the bidder and a copy of the notarized form submitted with the bid. The original hardcopy signature page must be kept by the bidder. A hardcopy version of the notarized document may be requested from selected awardees during the contract development stage.

All bid proposals must include the following:

- OCFS-0910 *Request for Bid Form* (containing the proposed hourly rates for each region that the bidder proposes to serve)
- Attachment 1 – Bidder's Certified Statements
- [OCFS-4715 Confidentiality Non-Disclosure Agreement](#)
- [OCFS-4716 Contractor Employee and Volunteer Background Certification](#)
- [OCFS-4822 Procurement Lobbying Act – Offeror Certification Form](#)
- Three (3) professional references, one of which must have been received within the past 12 months
- A curriculum vitae or resume that demonstrates that the applicant worked for, or was under contract with, a juvenile justice/child welfare program in their professional capacity as a licensed clinician for a minimum of two (2) years within the last fifteen (15) years. For organizations proposing multiple clinicians to provide IFB services, a curriculum vitae or resume must be provided for each individual who is proposed to provide services.
- Copy of candidate's clinician license or if an organization with multiple service providers, copies of licenses for all clinicians the bidder is proposing to provide the services required under this IFB.
- If the offeror is not an individual clinician, offeror must provide proof of malpractice insurance.

Attachments to this announcement are also available for download from The New York State Contract Reporter (Contract Reporter) website at <https://www.nyscr.ny.gov> or the OCFS website at <https://ocfs.ny.gov/main/contracts/funding/>.

General Proposal Appearance

Bid proposal emails may be submitted containing either one singular document or multiple document attachments. Document filenames are encouraged to be logical and make the attachment(s) easily identifiable. Please ensure that all document attachments provided via email are complete, correct, viewable, and comply with the requirements of the IFB. Bidders must not upload password protected documents or secured documents. **Documents that are incomplete or cannot be viewed may result in disqualification.** Ensure that all passwords are removed prior to submitting your bid proposal.

The fonts and margins used in the bid proposal should be reasonable. 12-point text using Arial, Times New Roman, or Calibri fonts are considered acceptable. Standard one-inch margins are recommended. It is permissible to use headers, footers, and page numbers inside the margins.

Please refer to IFB Section 2.1 Instructions for Bid Submission and Section 1.3 Calendar of Events.

Documents That May Be Submitted with Bid Proposal, But Will Be Accepted After Bid Submission

- [Vendor Responsibility Questionnaire](#) (or proof of online VendRep certification. See Section 4.21 of the IFB for more information)
- [OCFS-2647 EO 177 Certification](#) (see Section 4.12 for more information)

Documents Required After Bid Submission

During contract negotiations, awarded offerors will be required to complete the following additional forms:

- ST-220-TD *Contractor Certification* (New York State Department of Tax and Finance form)
- ST-220-CA *Contractor Certification to Covered Agency* (New York State Department of Tax and Finance form)
- AC 3271-S *State Consultant Services – Contractor’s Planned Employment* (Form A)
- Proof of Workers’ Compensation and disability benefits coverage or *Certificate of Attestation of Exemption* from New York State Workers’ Compensation Board and/or disability benefits coverage

3. **Specifications**

3.1 **Eligible Bidders**

All individuals or organizations who satisfy the requirements noted in **Section 3.2** through **Section 3.5** are eligible to apply.

If the Bidder is not an individual clinician, offeror must provide proof of malpractice insurance to be eligible to bid.

Bidders may propose to serve any or all of the regions defined in **Section 1.1 Overview** and should submit one proposal for all regions proposed to be served.

3.2 **Product/Service Specifications**

Minimum Requirements: Licensed clinicians must have a minimum of two (2) years of experience in the juvenile justice/child welfare field to be a QI conducting assessments of OCFS-placed youth in accordance with FFPSA and corresponding New York State standards. To meet this requirement, applicants must have:

- worked for, or been under contract with, a juvenile justice/child welfare program in their professional capacity as a licensed clinician for a minimum of two (2) years within the last fifteen (15) years. Juvenile justice/child welfare programs include, but are not limited to, LDSSs, a VA, a residential agency serving youth or families, a community-based provider, and/or other entities that address issues of child safety, as it pertains to abuse and neglect, and/or provide or coordinate services for youth and families to address challenges such as substance abuse, mental health, and domestic violence.

Duties/Scope of Work for All Awardees:

- QIs must provide proof of certification and training in the use of CANS-NY prior to completing any assessments. (Questions concerning certifications may be emailed to: FamilyFirstNY@ocfs.ny.gov.)
- Utilize an OCFS-approved CANS-NY as part of youth's assessment. Upon receipt of referral, acknowledge receipt of referral via email.
- Adhere to HIPAA guidelines in this process, including but not limited to necessary consents to share information.
- Review referrals and documentation from initial assessments and previous court ordered evaluations as needed.
- Convenes the family and permanency team. Conduct interviews with family and youth to obtain or clarify any information needed to complete functional assessments and formulate youth-specific short- and long-term mental and behavioral health goals.

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- Work in close collaboration with the pertinent DJJOY staff, QRTP, and integrated multi-disciplinary support team to gather information to formulate a determination.
- Complete CANS assessment tool, QI Report Template and update as needed.
- Submit completed CANS assessment tool and summaries, QI Report Template and documentation to the OCFS community case manager and aftercare supervisor.
- Provide DJJOY with recommendations regarding whether the youth's needs can be most effectively and appropriately met with family members, in a foster family home, in a congregate residential setting, or in a QRTP as the least restrictive environment; and
 - Reasons for selecting one environment and *not* selecting any of the others must be clearly stated on OCFS-approved forms.
 - Recommended placement in a congregate residential setting or QRTP must be consistent with the short- and long-term goals specified in the youth's community reentry plan (CRP)/family assessment and service plan (FASP), which must align with the permanency plan submitted to the court.
- Submit written reports to OCFS/DJJOY with recommendations within 25 days of the youth's first day in a QRTP.
- Appear in any court proceedings pertaining to the assessment performed on behalf of the youth.
- Provide invoices documenting time spent on each day that activities were undertaken to complete a QI assessment. Time sheets must indicate travel time to and from specific locations to conduct interviews, if applicable.
- Practice in accordance with all OCFS policies, procedures, and memoranda.
- Exchange relevant information with other service providers when there is a valid signed release form by an authorized party (parent, guardian, or other person legally authorized to consent to release of information).
- Attend all training required by OCFS for these services.

Applicants may not subcontract any components of the scope of work.

3.3 Delivery

Refer to **Section 1.1 Overview** for additional information regarding services and hours to be delivered. **Please note there is no promise or guarantee of hours.**

By submitting a bid, the offeror:

1. Understands that any candidate(s) proposed must meet and continue to meet the minimum requirements for the duration of the contract.
2. Agrees that during the term of the contract, bidder will submit the required clinician documentation as required by this IFB for OCFS prior approval before assigning new clinicians to provide assessment services.

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3. Agrees that the candidate(s) will perform all duties outlined above under Duties/Scope of Work.

3.4 Security Procedures

Please note that the interview location may have security policies which must be followed. The contractor will work with OCFS to obtain necessary clearances. The contractor may be required to provide information such as, but not limited to, the company name, the employee's name (as it appears on ID), valid driver license number, vehicle make, model and license plate, etc. to gain access to the delivery location.

3.5 Warranty (if commodity purchase)

Not applicable.

4. Administrative Information

4.1 Method of Award

Awards will be made on a regional basis. Each region defined in **Section 1.1 Overview** has a specified number of hours to be awarded based on the anticipated number of assessments needed for that region. The bidder(s) submitting a bid in compliance with **Section 2.0 Bid Submission**, meeting requirements stated in **Section 3.0 Specifications**, passing vendor responsibility review, and offering the lowest hourly rates for each region will be awarded a contract. Contracts will be awarded to bidders with the next lowest hourly rate until the maximum number of awards in each region have been met as specified in **Section 1.1 Overview**. Please see **Section 4.2 Price** for more information regarding bid rate and requirements. A sample contract can be found at the following link: <https://ocfs.ny.gov/main/contracts/docs/Non-Grant-Contract-Template.pdf>.

OCFS reserves the right to non-award any candidate when it determines that it is unreasonable to expect such candidate to perform the requested services satisfactorily. This determination will be made based on the number of projected hours required for the work versus the number of hours the candidate will be available to work.

There will be no adjustment to the rate during the contract period.

In the event of a tied bid, offerors with the most experience (in months), providing services to adolescents in the juvenile justice and/or child welfare field, will be awarded the contract.

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In the event a tie still exists, each offeror with a tied score that submits a qualifying tie bid will have their name written on a piece of paper which will be placed in a secure container. OCFS will then draw one offeror by random selection.

4.2 **Price**

Price will be determined by bidder submission of an hourly rate for each region proposed to be served.

Your bid rate must include all costs associated with providing and delivering the assessment as specified, including travel expenses, court appearances, insurance, administrative charges, and ancillary costs. There is no separate travel reimbursement for expenses such as mileage or public transportation fares. However, offerors will be reimbursed at hourly rate for travel time commuting to and from an assessment location. Contractor timesheets should include travel time to conduct interviews and administrative hours for all other aspects of the assessment.

4.3 **Term of Contract**

It is the intention of the state to award up to 24 contract(s) as per **Section 1.1 Overview** to the awarded offeror(s). The contract(s) will commence on or about the contract start dates as stated in **Section 1.3 Calendar of Events**, continue until 7/31/2024, and be subject to approval by the New York State Department of Civil Service (DCS), New York State Office of the Attorney General (OAG), and Office of the State Comptroller (OSC). Contractors may not begin to provide services prior to the contract start date. OCFS has no obligation to pay for services rendered prior to that time; payments cannot be made prior to the formal execution of a contract which includes approval by OSC, if over \$50,000. A copy of the terms and conditions of the contract are attached to this IFB.

4.4 **Method of Payment**

Payments will be processed monthly following the completion of services and upon submittal of required documentation for services performed and a signed claim for payment form, as directed by OCFS in Appendix C of the resulting contract.

4.5 **Dispute Resolution**

It is the policy of the OCFS to provide vendors with an opportunity to administratively resolve disputes, complaints or inquiries related to bid solicitations, contract awards, and contract administration. OCFS encourages vendors to seek resolution of disputes informally, through consultation with staff, prior to commencing a formal dispute process. All such matters will be accorded impartial and timely consideration. See Section 4.26 for additional information.

4.6 Contractor Responsibilities

The contractor shall be solely responsible for all compliance with terms and conditions in this IFB or any resulting Contract. The contractor may not engage a subcontractor or dealer, distributor, reseller, or any other party to carry out any part of this contract without the prior written consent of OCFS. The contractor accepts full responsibility for the actions of any employee who carries out any of the provisions of any contract resulting from this IFB.

4.7 Inspection of Books

It is expressly understood and agreed that OCFS and OSC shall have the right to inspect and audit the contractor's records covered under this agreement, in accordance with his/her statutory responsibility to examine the books and accounts of every agency. OSC requires, and the contractor agrees to, the retention of all material that is pertinent to an audit of the operations under any purchase order resulting from this IFB for a full three-year period or contract resulting from this IFB for a full six-year period.

4.8 OCFS Reserved Rights

OCFS reserves the right to

1. place a monetary cap on the funding amount made in each contract award;
2. change any of the schedule dates stated in this IFB;
3. reject any or all proposals received in response to the IFB;
4. withdraw the IFB at any time at the agency's sole discretion;
5. make an award under the IFB in whole or in part;
6. disqualify any offeror whose conduct and/or proposal fails to conform to the requirements of the IFB;
7. reject any proposal if, in the sole discretion of OCFS, it determines the offeror is not a responsible vendor;
8. seek clarification and revisions of proposals. Request offerors to present supplemental information clarifying their proposals either in writing or by formal presentation. New information is not permitted;
9. require that offerors demonstrate, to the satisfaction of OCFS, any feature(s) present as a part of their proposal that may include an oral presentation of their proposal and may be considered in the evaluation of the proposal;

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10. prior to opening of bids, amend any part of this IFB with notification to all offerors, and direct all offerors to prepare modifications addressing IFB amendments, if necessary. Expenses incurred in the preparation of any proposals or modifications submitted in response to this IFB are the sole responsibility of the offeror or other party and will not be incurred by OCFS;
11. make funding decisions that maximize compliance with and address the outcomes identified in this IFB;
12. fund only one portion, or selected activities, of the selected offeror's proposal and/or adopt all or part of the selected offeror's proposal based on federal and state requirements;
13. eliminate any IFB requirements that cannot be met by all prospective offerors upon notice to all parties that submitted proposals;
14. waive procedural technicalities or modify minor irregularities in proposals received after notification to the offeror involved;
15. correct any arithmetic errors in any proposal or make typographical corrections to proposals with the concurrence of the offeror;
16. negotiate with the selected offeror(s) prior to contract award;
17. conduct contract negotiations or award a contract to the next highest offeror if contract negotiations with the selected offeror(s) cannot be accomplished within an acceptable time frame. No offeror will have any rights against OCFS arising from such actions;
18. award contracts to more than one offeror or to other than the lowest offeror;
19. require that all proposals be held valid for a minimum of 120 days from the closing date for receipt of proposals, unless otherwise expressly provided for in writing;
20. fund any or all of the proposals received in response to this IFB. However, issuance of this IFB does not commit OCFS to fund any proposals. OCFS can reject any proposals submitted and reserves the right to withdraw or postpone this IFB without notice and without liability to any offeror or other party for expenses incurred in the preparation of any proposals submitted in response to this IFB and may exercise these rights at any time;
21. use the proposal submitted in response to this IFB as part of an approved contract. At the time of contract development, awardees may be requested to provide additional budget and program information for the final contract;

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22. utilize any and all ideas submitted in the proposals received;
23. require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an offeror's proposal and/or to determine an offeror's compliance with the requirements of the solicitation;
24. make additional awards based on the remaining proposals submitted in response to this IFB and/or provide additional funding to awardees if such funds become available;
25. make inquiries of third parties, including but not limited to offerors' references, with regard to the applicants' experience or other matters deemed relevant to the proposal by OCFS. By submitting a proposal in response to this IFB, the applicant gives its consent to any inquiry made by OCFS;
26. require contractors to participate in a formal evaluation of the program to be developed by OCFS. Contractors may be required to collect data for these purposes. The evaluation design will maintain confidentiality of participants and recognize practical constraints of collecting this kind of information;
27. consider statewide distribution and regional distribution within New York City, if applicable, including borough distribution methodology, in evaluating proposals;
28. rescind awards for failure of awardees to meet required timeframes for contract development and/or signature;
29. use proposal information obtained through site visits, management interviews and the State's investigation of a bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the bidder in response to the agency's request for clarifying information in the course of evaluation and/or selection under the IFB; and
30. reject any extraneous terms, alternate activities/work to be performed, added conditions, or exceptions stated by applicants within their proposal(s). This includes, but is not limited to, proposed changes to the standard terms and conditions of the resulting contract(s).

4.9 Incurred Costs

The State of New York shall not be liable for any costs incurred by an offeror in the preparation and production of a proposal or for the contractor's participation in any pre-contract award activity. The State of New York shall not be liable for any cost

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incurred by the contractor in preparation for or prior to the approval of an executed contract by the OSC.

4.10 Security, Nondisclosure and Confidentiality Agreement

The content of each offeror's proposal will be held in strict confidence by the state during the bid evaluation process and will not be disclosed except to the evaluation panels, and to OAG and OSC as may be necessary to obtain the approvals of those agencies for the final Contract and except as required by law. The successful offeror's proposal and a copy of the specifications will be made a part of the contract.

Public inspection of a proposal is regulated by the Freedom of Information Law (Article 6 of the New York Public Officer's Law, hereinafter "FOIL"). Proposals are presumptively available for public inspection. If this would be unacceptable to offerors, they should apply to the Division of Budget (DOB) for trade secret protection for their bid.

Confidential, trade secret or proprietary materials as defined by the laws of the State of New York must be clearly marked and identified as such upon submission by the offeror. Marking the bid as "confidential" or "proprietary" on its face or in the document header or footer shall not be considered to be sufficient without specific justification as to why disclosure of particular information in the bid would cause substantial injury to the competitive position of the offeror.

Offerors/contractors intending to seek an exemption from disclosure of these materials under the Freedom of Information Law must request the exemption in writing, setting forth the reasons for the claimed exemption. Acceptance of the claimed materials does not constitute a determination on the exemption request, which determination will be made in accordance with statutory procedures.

The Public Officers' Code of Ethics (Section 74 of the Public Officers Law) sets the standard that no officer or employee of a state agency shall disclose confidential information that he/she acquires during the course of his/her official duties. These standards control the confidentiality of an offeror's proposal unless DOB grants a petition for records access in accordance with the Freedom of Information Law.

Offerors should be advised that the confidentiality of their proposals is founded upon statute, as described above. A nondisclosure agreement, whether prescribed by DOB or the offeror, would not alter the rights and responsibilities of either party under the Freedom of Information Law. Offerors should not propose a nondisclosure agreement for DOB employees, for that would be legally ineffective to alter any responsibility under the Freedom of Information Law or the Code of Ethics.

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The provisions of the Freedom of Information Law will also govern the confidentiality of any and all products or services supplied by the successful offeror.

Please see Content of Proposals for the [OCFS-4715 - Confidentiality Non-Disclosure Agreement](#) which each contractor or subcontractor, employee of a contractor or subcontractor, and volunteer with a contractor or subcontractor will be required to sign.

4.11 Omnibus Procurement Act

It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as offerors, subcontractors, and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available on the internet at www.esd.ny.gov. For additional information and assistance, contact:

New York State Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
Email: opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

New York State Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, New York 10017
Telephone: 212-803-2414
Email: mwbecertification@esd.ny.gov
<https://ny.newnycontracts.com>

NOTE: Companies requesting lists of potential subcontractors and suppliers are encouraged to identify the Standard Industrial Classification (SIC) code, size, and location of vendors.

A directory of minority and women-owned business enterprises is available on the internet at <https://ny.newnycontracts.com>. For additional information and assistance, contact either of the above listed offices.

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The Omnibus Procurement Act of 1992 requires that by signing a bid proposal, contractors certify that whenever the total offer amount is greater than \$1 million:

1. The contractor has made reasonable efforts to encourage the participation of New York State business enterprises as suppliers and subcontractors on this project, and has retained the documentation of these efforts to be provided upon request to the state;
2. The contractor has documented their efforts to encourage the participation of New York State business enterprises as suppliers and subcontractors by showing that they have done the following:
 - Solicited offers, in a timely and adequate manner, from New York State Empire State Development business enterprises, including certified minority and women-owned businesses; or
 - Contacted New York State Empire State Development to obtain listings of New York State business enterprises and MWBE; or
 - Placed notices for subcontractors and suppliers in newspapers, journals or other trade publications distributed in New York State; or
 - Participated in offeror outreach conferences.

If the contractor determines that New York State business enterprises are not available to participate on the contract as subcontractors or suppliers, the contractor shall provide a statement indicating the method used to determine this.

If the contractor does not intend to use subcontractors, the contractor shall provide a statement verifying such.

3. The contractor has complied with the federal Equal Opportunity Act of 1972 (P.L. 92-961), as amended;
4. The contractor will be required to notify New York State residents of employment opportunities through listing any such positions with Community Services Division of the New York State Department of Labor, providing for such notification in a manner consistent with existing collective bargaining contracts or agreements. The agency agrees to document these efforts and to provide said documentation to OCFS upon request;
5. Offerors located in a foreign country are notified that the State may assign or otherwise transfer offset credits to third parties located in New York State, and the offerors shall be obligated to cooperate with the State in any and all respects in making such assignment or transfer, including, but not limited to, executing any and all documents deemed by the State to be necessary or desirable to effectuate such assignment or transfer, and using their best efforts

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to obtain the recognition and accession to such assignment or transfer by any applicable foreign government; and

6. Offerors are hereby notified that State agencies and authorities are prohibited from entering into contracts with businesses whose principal place of business is located in a “discriminatory jurisdiction.” This is defined as a state or political subdivision that employs a preference or price distorting mechanism to the detriment of or otherwise discriminates against a New York State business enterprise in the procurement of commodities and services by the same or a non-governmental entity influenced by the same. A list of discriminatory jurisdictions is maintained by the Commissioner of New York State Empire State Development.

4.12 Executive Orders

Prohibiting State Contracts with Entities That Support Discrimination

Executive Order 177, dated February 3, 2018, directs New York State agencies and authorities not to enter into any contracts with entities that have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected basis. The Contractor must provide the EO 177 certification statement prior to any award being made by OCFS.

Prohibiting State Contracts with Entities That Support Russia

Executive Order No. 14, dated February 27, 2022, requires State agencies to terminate any contracts and to refrain from entering into any new contracts with an institution or company that is determined to be a Russian or Russia supporting entity.

Executive Order No. 16, dated March 17, 2022, requires State agencies to refrain from entering into any new contract or renewing any existing contract with an entity conducting business operations in Russia.

Executive Orders 14 and 16 include the following definitions:

- “Russian entity” means an institution or company that is headquartered in Russia or has its principal place of business in Russia.
- “Supporting entity” means any institution or company providing assistance to the Russian government in its campaign to invade the sovereign country of Ukraine, either through in-kind support or for-profit.
- “Entity conducting business operations in Russia” means an institution or company, wherever located, conducting any commercial activity in Russia or transacting business with the Russian Government or with commercial entities

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headquartered in Russia or with their principal place of business in Russia in the form of contracting, sales, purchasing, investment, or any business partnership.

By submission of a response to this solicitation the offerer certifies that the Offeror:

- a. is not a Russian or Russia supporting entity, as those terms are defined in the Executive Order No. 14 (dated February 27, 2022).
- b. is not an entity conducting business operations in Russia, as those terms are defined in the Executive Order No. No. 16 (dated March 17, 2022).

4.13 Minority and Women-Owned Business Enterprises (MWBE) – Equal Employment Opportunity (EEO) - Requirements & Procedures

This section outlines contractor requirements and procedures for business participation opportunities for New York State certified Minority and Women-Owned Business Enterprises (MWBE), and Equal Employment Opportunities (EEO) for minority group members and women. All forms can be found [here](#).

New York State Executive Law (Article 15-A)

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations OCFS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority and Women-owned Business Enterprises (“MWBEs”) and the employment of minority group members and women in the performance of OCFS contracts.

MWBE Business Participation Opportunities – OCFS-Established Goals

For purposes of this solicitation, OCFS hereby establishes an overall goal of **30** percent for MWBE participation, **15** percent for New York State-certified Minority-Owned Business Enterprise (“MBE”) participation and **15** percent for New York State-certified Women-Owned Business Enterprise (“WBE”) participation (based on the current availability of MBEs and WBEs). A contractor (“Contractor”) on any contract resulting from this procurement (“Contract”) must document its good faith efforts to provide meaningful participation by MWBEs as subcontractors and suppliers in the performance of the Contract. To that end, by submitting a response to this IFB, the respondent agrees that OCFS may withhold payment pursuant to any Contract awarded as a result of this IFB pending receipt of the required MWBE documentation. The directory of MWBEs can be viewed at: <https://ny.newnycontracts.com>. For guidance on how OCFS will evaluate a Contractor’s “good faith efforts,” refer to 5 NYCRR § 142.8.

The respondent understands that only sums paid to MWBEs for the performance of a commercially useful function, as that term is defined in 5 NYCRR § 140.1, may

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be applied towards the achievement of the applicable MWBE participation goal. The portion of a contract with an MWBE serving as a broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25% of the total value of the contract.

Contract Compliance

In accordance with 5 NYCRR § 142.13, the respondent further acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in a Contract resulting from this IFB, such finding constitutes a breach of contract and OCFS may withhold payment as liquidated damages.

Such liquidated damages shall be calculated as an amount equaling the difference between: (1) all sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and (2) all sums actually paid to MWBEs for work performed or materials supplied under the Contract.

By submitting a bid or proposal, a respondent agrees to demonstrate its good faith efforts to achieve the applicable MWBE participation goals by submitting evidence thereof through the New York State Contract System (“NYSCS”), which can be viewed at <https://ny.newnycontracts.com>, provided, however, that a respondent may arrange to provide such evidence via a non-electronic method by contacting OCFS.

Additionally, a respondent will be required to submit the following documents and information as evidence of compliance with the foregoing:

- A. An MWBE Utilization Plan with their bid or proposal. Any modifications or changes to an accepted MWBE Utilization Plan after the Contract award and during the term of the Contract must be reported on a revised MWBE Utilization Plan and submitted to OCFS for review and approval.

OCFS will review the submitted MWBE Utilization Plan and advise the respondent of OCFS acceptance or issue a notice of deficiency within 30 days of receipt.

- B. If a notice of deficiency is issued, the respondent will be required to respond to the notice of deficiency within seven (7) business days of receipt by submitting to OCFS a written remedy in response to the notice of deficiency to ContractCompliance@ocfs.ny.gov. If the written remedy that is submitted is not timely or is found by OCFS to be inadequate, OCFS shall notify the respondent and direct the respondent to submit, within five (5) business days, a request for a partial or total waiver of MWBE participation goals. Failure to file the waiver form in a timely manner may be grounds for disqualification of the bid or proposal.

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OCFS may disqualify a respondent as being non-responsive under the following circumstances:

- a) If a respondent fails to submit an MWBE Utilization Plan.
- b) If a respondent fails to submit a written remedy to a notice of deficiency.
- c) If a respondent fails to submit a request for waiver.
- d) If OCFS determines that the respondent has failed to document good faith efforts.

The successful respondent will be required to attempt to utilize, in good faith, any MBE or WBE identified within its MWBE Utilization Plan, during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to Contract Award may be made at any time during the term of the Contract to OCFS but must be made no later than prior to the submission of a request for final payment on the Contract.

The successful respondent will be required to submit a quarterly M/WBE Contractor Compliance & Payment Report to OCFS, by the 10th day following each end of quarter over the term of the Contract documenting the progress made toward achievement of the MWBE goals of the Contract.

Equal Employment Opportunity (EEO) Requirements

By submission of a bid or proposal in response to this solicitation, the respondent agrees with all of the terms and conditions of Appendix A – Standard Clauses for All New York State Contracts including Clause 12 - Equal Employment Opportunities for Minorities and Women. The respondent is required to ensure that it and any subcontractors awarded a subcontract for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work"), except where the Work is for the beneficial use of the respondent, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

The respondent will be required to submit [OCFS-3460, Minority and Women-owned Business Enterprises \(MWBE\) and Equal Employment Opportunity Policy Statement](#), to OCFS with its bid or proposal.

If awarded a Contract, respondent shall submit a Workforce Utilization Report and shall require each of its Subcontractors to submit a Workforce Utilization Report,

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in such format as shall be required by OCFS on a quarterly basis during the term of the Contract.

Pursuant to Executive Order No. 162, non-grant contractors and subcontractors will also be required to report the gross wages paid to each of their employees for the work performed by such employees on the contract utilizing the Workforce Utilization Report on a quarterly basis.

Further, pursuant to Article 15 of the Executive Law (the “Human Rights Law”), all other state and federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

Please note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.

4.14 Service-Disabled Veteran Owned Business (SDVOB)

[The Service-Disabled Veteran-Owned Business Act](#), signed into law by Governor Andrew M. Cuomo on May 12, 2014, allows eligible veteran business owners to become certified as a New York State Service-Disabled Veteran-Owned Business (SDVOB) in order to increase the participation of such businesses in New York State's contracting opportunities. The SDVOB Act, which is codified under Article 17-B of the Executive Law, acknowledges that SDVOBs strongly contribute to the economies of the state and the nation. Therefore, and consistent with its Master Goal Plan, OCFS strongly encourages vendors who contract with OCFS to consider the utilization of certified SDVOBs that are responsible and responsive for at least **six (6) percent** of discretionary non-personnel service spending in the fulfillment of the requirements of their contracts with OCFS. Such partnering may include utilizing certified SDVOBs as subcontractors, suppliers, protégés, or in other supporting roles to the maximum extent practical, and consistent with the legal requirements of the State Finance Law and the Executive Law. Certified SDVOBs may be readily identified through the directory of certified businesses at: [List of Certified NYS Service-Disabled Veteran-Owned Businesses](#).

4.15 Anti-Kickback Act

The contractor understands that it must comply with federal Executive Order No. 11246, the Copeland “Anti-Kickback Act” (18 USC 874), Section 508 of the federal

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Clean Air Act, Section 306 of the federal Clean Water Act, and that it must certify that neither it nor its principals are debarred or suspended from federal financial assistance programs and activities and to complete and return in pursuit of such certification any appropriate form required by the state (see federal Executive Order No. 12549 and 7 CFR Part 3017).

4.16 Contractor Responsibility

Not Applicable. No Subcontracting Allowed.

4.17 Multi-Agency Use

The contract entered into pursuant to an award resulting from this IFB shall contain a provision which grants the option to extend the terms and conditions of such contract to any other state agency in New York State.

4.18 Contacts with Employees

1. From the issuance of this Invitation for Bid (IFB), or upon the posting of it on a governmental entity's website, in a newspaper, or in the procurement opportunities newsletter, whichever is earlier, until final contract awards have been made and approved, all contact concerning this IFB with OCFS personnel, except as otherwise specified in **Section 4.19 Procurement Lobbying Act**, must be made through the contact provided for on the cover page of this IFB with the bid name in the subject line.
2. Prospective offerors shall not approach state personnel with offers of employment during the procurement period or risk being disqualified from the procurement. Any offeror who is aware of a state employee who is considering employment with the offeror must advise the state forthwith.

4.19 Procurement Lobbying Act

Pursuant to State Finance Law §§139-j and 139-k, this procurement imposes certain restrictions on communications between the State and a vendor during the procurement process. Vendors are restricted from making oral, written, or electronic contacts with New York State employees until OSC contract approval, other than to the point of contact as identified in **Section 1.2 Designated Contracts**. Statutory exceptions to vendor contact with other than the designated point of contact are listed below:

1. Submission of a written proposal in response to this procurement
2. Submission of written questions prior to the proposal due date (note: the PLA does not allow the hiring manager to schedule interviews)
3. Complaints filed by a vendor stating that the designated point of contact has failed to respond in a timely manner

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4. Negotiations following task order award
5. Debriefings to vendors that were not award recipients
6. Filing of an appeal or protest

New York State employees other than the designated point of contact who are contacted by a vendor are required to obtain and record certain information when contacted that could result in a finding of non-responsibility against the vendor. Such a finding can result in a rejection of a task order award and in the event of two findings within a four-year period, the vendor would become debarred from obtaining New York State contracts. Further information about these requirements can be found at <https://ogs.ny.gov/acpl/>.

The *Procurement Lobbying Act* also requires that every procurement over \$15,000 include a certification by the vendor that all information provided to the agency is complete, true, and accurate with regard to prior non-responsibility determinations within the past four years based on (i) impermissible contacts or other violations of State Finance Law Section 139-j, or (ii) the intentional provision of false or incomplete information to a governmental entity. See [OCFS-4822, Procurement Lobbying Act – Offeror Certification Form](#) in the ADMINISTRATIVE INFORMATION, Content of Proposals Section of this IFB.

The state reserves the right to terminate the award resulting from this procurement in the event it is found that the certification filed by the offeror in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the state may exercise its termination right by providing written notification to the award recipient.

4.20 Public Officers Law

All offerors and their employees must be aware of and comply with the requirements of the New York State Public Officers Law, and all other appropriate provisions of New York State law and all resultant codes, rules and regulations from state laws establishing the standards for business and professional activities of state employees and governing the conduct of employees of firms, associations, and corporations in business with the state. In signing the proposal, each offeror guarantees knowledge and full compliance with those provisions for any dealings, transactions, sales, contracts, services, offers, relationships, etc. involving the state and/or state employees. Failure to comply with those provisions may result in disqualification from the bidding process and in other civil or criminal proceedings as required by law <https://www.nysenate.gov/legislation/laws/PBO>.

4.21 Vendor Responsibility

New York State Finance Law requires that state agencies award contracts to responsible contractors, including but not limited to not-for-profit and for-profit vendors. Vendor responsibility will be determined based on the information

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provided by the offeror online through the New York State VendRep system questionnaire, or through a paper copy of the vendor responsibility questionnaire. OCFS will review the information provided before making an award.

OCFS reserves the right to reject any proposal, if in the sole discretion, it determines the offeror is not a responsible vendor, or is not, or may not be, during the life of the contract, a stable financial entity. All proposals are subject to vendor responsibility determination before the award is made, and such determination can be revisited at any point up to the final approval of the contract by OSC.

Enrolling and completing the questionnaire online through the New York State VendRep system is the best method because both the questionnaire and answers are stored in the system. Thus, subsequent questionnaires in response to contracts or solicitations from any state agency would only need to be updated in the system.

To access or enroll in the VendRep system, or update your existing online questionnaire click here: [Online Questionnaire](#). Questionnaires in the VendRep system that have been completed in the last six months in response to contracts or bid announcements do not need to be updated. If the vendor is using the hard copy notarized questionnaire, then it also has to be current within six months of the due date of the proposal.

Vendors opting to complete a paper questionnaire, can access the questionnaire by clicking the following link: [Paper Questionnaire](#). Please note that there are separate vendor responsibility questionnaires depending on the contractor status. The *Vendor Responsibility Questionnaire – Not-for-Profit Business Entity* form must be used by not-for-profit vendors. The *Vendor Responsibility Questionnaire – For-Profit Business Entity* form must be used by for-profit vendors.

Vendors are also encouraged to have subcontractors file the required vendor responsibility questionnaire online through the New York State VendRep system. These subcontractors are required to submit a questionnaire when the value of the subcontract is \$100,000 or more.

Prior to executing a subcontract agreement, the contractor needs to agree to provide the information required by OCFS, to determine whether a proposed subcontractor is a responsible vendor.

Vendors must provide their New York State vendor identification number when enrolling. To request assignment of a vendor identification number or for direct VendRep system user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at ciohelpdesk@osc.ny.gov.

The New York State VendRep system offers the following benefits:

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- Ease of completion, filing, access to and submission of the questionnaire. Efficiencies are multiplied for vendors who bid and contract with the state frequently or with multiple state agencies.
- Questionnaire updates are easily filed by updating only those responses that require change from the previously saved questionnaire (as opposed to a paper copy where a new questionnaire is required each time there is a change).
- The stored questionnaire information eliminates the need to re-enter data for each subsequent questionnaire submission.
- Reduction of costs associated with paper documents including copying, delivery and filing
- Online questionnaire information is secure and accessible to authorized vendor users only. State agencies can only view certified and finalized questionnaires.
- VendRep question prompts ensure that the correct forms are completed.
- The VendRep online system contains links to all definitions of the terms used in the questionnaire.

Note: All vendor responsibility questionnaires must be dated within six months of the proposal due date. Any subcontractors under that proposed contract must also complete a vendor responsibility questionnaire when the value of the subcontract is projected to be \$100,000 or more for the contract term.

4.22 Workers' Compensation Law

New York State Workers' Compensation Law (WCL) and Section 142 of the State Finance Law requires that businesses contracting with New York State HAVE and MAINTAIN workers' compensation and disability insurances. In the event that an award is made from this IFB, updated proof of coverage must be submitted during contract development. Failure to submit the proof will delay the contract development process. Please note that the OSC has determined that municipalities are not required to show proof of coverage.

Proof of Workers' Compensation Coverage

To comply with coverage provisions of the WCL, the Workers' Compensation Board requires that a business seeking to enter into a state contract submit appropriate proof of coverage to the state contracting entity issuing the contract. For each new contract or contract renewal, the contracting entity must obtain ONE of the following forms from the contractor and submit to OSC to prove the contractor has appropriate workers' compensation insurance coverage. The forms can be accessed at: <http://www.wcb.ny.gov/content/main/forms/AllForms.jsp>

- **Form C-105.2** - *Certificate of Workers' Compensation Insurance* issued by private insurance carriers, or **Form U-26.3** issued by the State Insurance Fund³; or

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- **Form SI-12⁴** - *Certificate of Workers' Compensation Self-Insurance*; or **Form GSI-105.2⁵** *Certificate of Participation in Workers' Compensation Group Self-Insurance*; or
- **CE-200⁶** - *Certificate of Attestation of Exemption* from NYS Workers' Compensation and/or Disability Benefits Coverage.

Proof of Disability Benefits Coverage

To comply with coverage provisions of the WCL regarding disability benefits, the Workers' Compensation Board requires that a business seeking to enter into a state contract must submit appropriate proof of coverage to the state contracting entity issuing the contract. For each new contract or contract renewal, the contracting entity must obtain one of the following forms from the contractor and submit to OSC to prove the contractor has appropriate disability benefits insurance coverage. The forms can be accessed at: <http://www.wcb.ny.gov/content/main/forms/AllForms.jsp>

- **Form DB-120.1³** - *Certificate of Disability Benefits Insurance*; or
- **Form DB-120.2** – *Certificate of Participation in Disability Benefits Group Insurance*; or
- **Form DB-155⁷** - *Certificate of Disability Benefits Self-Insurance*; or
- **CE-200⁶** - *Certificate of Attestation of Exemption* from New York State Workers' Compensation and/or Disability Benefits Coverage.

4.23 New York State Sales and Compensating Use Taxes

Tax Law Section 5-a, which was added to the Tax Law under Part N of Chapter 60 of the Laws of 2004, imposes upon certain contractors the obligation to certify whether or not the contractor and its affiliates are required to register to collect state sales and compensating use tax. Where required to register, the contractor must also certify that it is, in fact, registered with the New York State Department of Taxation and Finance (DTF). The law prohibits the OCS or other approving agency from approving a contract awarded to an offeror meeting the registration requirements but who is not so registered in accordance with the law.

Pursuant to Tax Law Section 5-a, the contractor, upon award, will be required to complete and sign, under penalty of perjury, the *Contractor Certification* form [ST-220-TD](#) and the *Contractor Certification to Covered Agency* form, [ST-220-CA](#). The contractor must also submit a copy of the certificate of authority, if available, for itself and any affiliates required to register to collect state sales and compensating use tax. If certificates of authority are unavailable, the contractor, affiliate, subcontractor, or affiliate of subcontractor must represent that it is registered and that it has confirmed such status with DTF.

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The above-noted ST-220-TD and ST-220-CA forms, and additional information regarding New York State Sales and Compensating Use Taxes can be found at the following websites:

Publication 223

<http://www.tax.ny.gov/pdf/publications/sales/pub223.pdf>

ST-220-CA

http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf

ST-220-TD

http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf

<https://www.tax.ny.gov/default.htm>

4.24 Confidentiality and Required Awardee, Contractor, Employee and Volunteer Background Checks

OCFS is responsible for maintaining the safety of the youth served by OCFS programs.

4.24.1 **Confidentiality** - New York State law requires that any client identifiable information be kept confidential. Any awardee, or contractor, employee, or volunteer of the awardee, who will be provided with confidential information of recipients served by the awardee must complete and sign form [OCFS-4715, Confidentiality Non-Disclosure Agreement](#). This form must be completed before the start date of the contract and before any such awardee, contractor, employee, or volunteer is permitted access to youth served by an awardee or to any financial or client identifiable information concerning such youth. For additional information see Appendix A-1, **Section 7 Confidentiality and Protection of Human Subjects**, located in section 5 below.

4.24.2 **Required Awardee, Contractor, Employee, and Volunteer Background Checks** - Any awardee, or contractor, employee, or volunteer of the awardee, who will have the potential for regular and substantial contact with youth in care or receiving residential services must be subject to background screening prior to hire or utilization in a position paid through this award. The screening must include a review of individuals' backgrounds through the following three (3) services: New York State Justice Center for the Protection of Persons with Special Needs Staff Exclusion List (SEL), New York Statewide Central Register of Child Abuse and Maltreatment (SCR); and a criminal history background check via a vendor that will submit information to both the division of criminal justice services and the federal bureau of investigation. Additional information regarding all three (3) services will be

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provided upon the grant of an award. Please note that the grant of an award may be negatively impacted if background checks reveal that an individual proposed to provide services is on the SEL, is the subject of any indicated reports of child abuse and maltreatment or has convictions for one or more prior criminal offenses. Awardees are responsible for notifying OCFS if a background check reveals that a contractor, employee, or volunteer of the awardee proposed to provide services has a criminal history. Any criminal history revealed as a result of such screening will be evaluated by OCFS pursuant to Correction Law Article 23-A, section 752 on a case-by-case basis taking into consideration the duties of the position and those factors set forth in Correction Law Article 23-A, section 753. OCFS will evaluate the results of the screening in accordance with Correction Law Article 23-A and notify the awardee of its determination. The awardee shall be responsible for the cost associated with any required background screens of the individuals identified in this section.

4.25 Consultant Disclosure Requirements

Chapter 10 of the Laws of 2006 requires collection and reporting of consulting services contracts by New York State vendors and state agencies during the April 1 through March 31 State Fiscal Year. The Law took effect June 19, 2006.

- **Initial Report Requirements**

State contractors are required to disclose by employment category, the number of persons projected to be employed who will provide services under a contract for consulting services, the number of hours that they will work, and the amount they will be paid working under the state contract. This will include information on any persons working under any subcontracts with the state contractor.

To comply with these reporting requirements, state contractors must complete and submit form [AC 3271-S NYS Consultant Services – Contractors Planned Employment \(Form A\)](#) to their OCFS contract manager with applicable contract documents.

- **Annual Report Requirements**

State contractors must also report each year on the actual employment information described above, including work performed by subcontractors. The report must include employment information for the period ending March 31st of each year. To comply with the annual reporting requirement, state contractors must complete form [AC 3272-S NYS Consultant Services – Contractors Annual Employment \(Form B\)](#). The form must be submitted by April 30th of each year to the following offices:

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Kevin Sweet
Bureau of Contract Management
New York State Office of Children and Family Services
52 Washington Street, South Building, Room 202
Rensselaer, New York 12144

New York State Office of the State Comptroller
Bureau of Contracts
110 State Street, 11th Floor
Albany, New York 12236
Attn: Consultant Reporting

New York State Department of Civil Service
ESP, Agency Building 1
19th Floor
Albany, New York 12239

4.26 OCFS Procedure for Handling Debriefing Requests, Formal Protests and Appeals

Section 1: Applicability

The intent and purpose of these procedures is to define the debriefing process, as well as the protest and appeal procedures. This includes the steps that must be taken when an interested party challenges a contract award by OCFS. These procedures shall apply to all contract awards made by OCFS.

Section 2: Definitions

1. **“Interested party”** shall mean a participant in the procurement process and those whose participation in the procurement process has been foreclosed by OCFS.
2. **“Contract award”** shall mean a written determination from OCFS to an offeror, indicating that OCFS has accepted the offeror’s bid or offer.
3. **“Debriefing”** shall mean the practice whereby, upon request of an offeror, OCFS advises such offeror of the reasons why its bid was not selected for an award. It is viewed as a learning process for the offeror to be better prepared to participate in future procurements
4. **“Formal Protest”** shall mean a written challenge to a contract award by OCFS.
5. **“Procurement”** shall mean any method used to solicit or establish a contract (i.e., invitation for bid, request for proposal, single/sole source, etc.)
6. **“Protesting party”** is the party who is filing a protest to the bid, contract award or other aspect of procurement.
7. **“Formal protest determination”** shall mean the determination of a formal protest by the Deputy Commissioner for Administration of OCFS or their designee.

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8. **“Decision after appeal”** shall mean the decision on the appeal of a formal protest by the Commissioner of OCFS or their designee.

Section 3: Debriefing Request

In accordance with section 163 of the State Finance Law, OCFS must, upon request, provide a debriefing to any unsuccessful offeror that responded to the IFB, regarding the reasons that the proposal or bid submitted by the unsuccessful offeror was not selected for an award.

1. OCFS will provide notice in writing or electronically to all unsuccessful offerors that the offeror will not receive an award under the IFB. An unsuccessful offeror wanting a debriefing must request a debriefing in writing, within fifteen calendar days of receipt of the notice from OCFS that the offeror's proposal did not result in an award.
2. OCFS, upon receipt of a timely written request from the unsuccessful offeror, will schedule the debriefing to occur within a reasonable period of time following the receipt of such request. Debriefings will be conducted in-person, unless OCFS and the offeror mutually agree to utilize other means, including, but not limited to, telephone, video-conferencing or other types of electronic communications.
3. Such debriefing will include: (A) the reasons that the proposal, bid or offer submitted by the unsuccessful offeror was not selected for an award; (B) the qualitative and quantitative analysis employed by OCFS in assessing the relative merits of the proposals, bids or offers; (C) the application of the selection criteria to the unsuccessful offeror's proposal; and (D) when the debriefing is held after the final award, the reasons for the selection of the winning proposal, bid or offer. The debriefing will also provide, to the extent practicable, general advice and guidance to the unsuccessful offeror concerning potential ways that their future proposals, bids or offers could be more responsive.

Section 4: Formal Protest and Appeal Procedure

Any interested party who believes that there are errors or omissions in the procurement process, who believes they have been aggrieved in the drafting or issuance of a bid solicitation or who believes they have been treated unfairly in the application, evaluation, bid award, or contract award phases of the procurement, may present a formal protest to OCFS and request administrative relief concerning such action.

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A. Submission of Bid or Award Protests

1. Deadline for Submission

- a. Concerning Alleged Errors, Omissions or Prejudice in the Bid Specifications or Documents: Formal protests that concern alleged errors in the drafting of bid specifications must be received by OCFS at least ten (10) calendar days before the date set in the solicitation for receipt of bids.
- b. Concerning Proposed Contract Award: Formal protests concerning a pending contract award must be received within five (5) business days after the protesting party knows or should have known of the facts that constitute the basis of the formal protest. Formal protests will not be accepted by OCFS concerning a contract award after the contract between OCFS and the offeror who received the contract award has been approved by OSC.

B. Review and Formal Protest Determination

1. Formal protests must be filed with the OCFS Deputy Commissioner for Administration. Any protests filed with the OCFS program division responsible for the procurement will be forwarded to the Deputy Commissioner for Administration. Copies of all formal protests will be provided by the Deputy Commissioner for Administration to the OCFS Division of Legal Affairs and other necessary parties within OCFS, as determined by the Deputy Commissioner for Administration.
2. Formal protests shall be resolved through written correspondence; however, either the protesting party or OCFS may request a meeting to discuss a formal protest. Where further formal resolution is required, the program division responsible for the procurement may designate a state employee not involved in the procurement ("designee") to determine and undertake the initial attempted resolution or settlement of any formal protest.
3. The OCFS program division responsible for the procurement will conduct a review of the records involved in the formal protest, and provide a memorandum to the Deputy Commissioner for Administration or the Commissioner's designee summarizing the facts, an analysis of the substance of the protest, and a preliminary recommendation including: (a) an evaluation of the findings and recommendations, (b) the materials presented by the protesting party and/or any materials required of or submitted by other offerors, (c) the results of any consultation with the OCFS Division of Legal Affairs, and (d) a draft response to the formal protest.

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4. The OCFS Deputy Commissioner for Administration or their designee shall hear and make a formal protest determination on all formal protests. A copy of the formal protest determination, stating the reason(s) upon which it is based and informing the protesting party of the right to appeal an unfavorable decision to the OCFS Commissioner, shall be sent to the protesting party or its agent within thirty (30) business days of receipt of the formal protest, except that upon notice to the protesting party such period may be extended by OCFS. The formal protest determination will be recorded and included in the procurement record, or otherwise forwarded to the OSC.

C. Appeal of Formal Protest Determination

1. If the protesting party is not satisfied with the formal protest determination, the protesting party **must** submit a written notice of appeal to the Commissioner of OCFS no more than fifteen (15) business days after the date the formal protest determination is sent to the protesting party.
2. The Commissioner or their designee shall hear and make a decision after appeal on all appeals.
3. An appeal may not introduce new facts unless responding to facts or issues unknown to the protesting party prior to the formal protest determination.

D. Reservation of Rights and Responsibilities of OCFS

1. OCFS reserves the right to waive or extend the time requirements for protest submissions, decisions and appeals herein prescribed when, in its sole judgment, circumstances so warrant to serve the best interests of the state.
2. If OCFS determines that there are compelling circumstances, including the need to proceed immediately with contract award and development of final contracts in the best interests of the state, then these protest procedures may be suspended, and such determination shall be documented in the procurement record.
3. OCFS will consider all information relevant to the protest, and may, at its discretion, suspend, modify, or cancel the protested procurement action, including solicitation of bids, or withdraw the recommendation of contract award prior to issuance of a formal protest decision.
4. OCFS will continue procurement and contract award activity prior to the formal protest determination. The receipt of a formal protest will not stop

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action on the procurement and award of the contract(s) or on development of final contracts.

- a. The procurement record and awarded contract(s) will be forwarded to OSC, and a notice of the receipt of a formal protest and any appeal will be included in the procurement record. If a formal protest determination, or a decision after appeal, has been reached prior to transmittal of the procurement record and the contract(s) to OSC, a copy of the formal protest determination or decision after appeal will be included in the procurement record and with the contract(s).
 - b. If a formal protest determination or decision after appeal is made after the transmittal of the procurement record and contract(s) to OSC, but prior to OSC approval, a copy of the formal protest determination or decision after appeal will be forwarded to OSC when issued, along with a letter either: a) confirming the original OCFS recommendation for award(s); b) modifying the proposed award recommendation; or c) withdrawing the original award recommendation.
5. All records related to formal protests and appeals shall be retained for at least one (1) year following resolution of the formal protest. All other records concerning the procurement shall be retained according to the applicable requirements for records retention.

Section 5: Appeal to the Office of the State Comptroller

If the protesting party is still not satisfied with the result of its protest after conclusion of the formal protest and appeal procedure described above, the protesting party *must* file a written appeal with the OSC within ten business days of the date the protesting party received OCFS's protest determination. An appeal to the OSC, Bureau of Contracts, must be in writing and must contain the specific factual and/or legal allegations setting forth the basis upon which the protesting party challenges the contract award by OCFS. Such appeal must be filed with the director of the bureau of contracts at the New York State Office of the State Comptroller, 110 State St, Albany NY, 12210

4.27 Standard Contract Language

The terms and conditions can be viewed [online by clicking on this link and are hereby incorporated into this IFB](#). By applying to this IFB offerors agree that they have reviewed and understand the contract terms and conditions. Contracts awarded under this IFB must be approved by the New York State Office of the Attorney General (OAG) and the New York State Office of the State Comptroller (OSC) before any payments are made on such contracts. Contractor obligations or expenditures prior to the contract start date shall not be reimbursed. Upon contract award and completion of negotiations, OCFS will send successful

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awardee(s) the complete contract for development and signature prior to submitting it to the OAG and to OSC for approval.

4.28 Appendix A - Standard Clauses for NYS Contracts

The offeror has read, understands, and accepts all provisions of Appendix A – Standard Clauses for NYS Contracts. Appendix A contains important information related to the contract to be entered into as a result of this IFB and will be incorporated, without change or amendment, into the contract entered into between OCFS and the selected offeror. By submitting a response to the IFB, the Proposer agrees to comply with all the provisions of Appendix A. Please review the sample non-grant contract template, which includes the Appendix A, available at <https://ocfs.ny.gov/main/contracts/awards/>.

4.29 State Finance Law §139-I; Statement on Sexual Harassment in Bids

New York State Finance Law §139-I, effective January 1, 2019, requires, in relevant part, that “[e]very bid . . . made to the state or any public department or agency thereof, where competitive bidding is required by statute, rule or regulation, for work or services performed or to be performed or goods sold or to be sold, shall contain [a] statement subscribed by the bidder and affirmed by such bidder as true under the penalty of perjury. . . [that] ‘[b]y submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that the bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of section two hundred one-g of the labor law.’” The Contractor must provide the foregoing certification prior to any award being made by OCFS. For additional guidance on drafting an appropriate sexual harassment policy and developing appropriate training please refer to State Finance Law §139-I and <https://www.ny.gov/combating-sexual-harassment-workplace/employers#top>

5. Contract Documents

The contract documents consist of the documents listed below.

1. Face Page
2. OCFS Agreement
3. Signatory Page
4. Appendix A
5. Appendix A-1: Standard Clauses for all NYS OCFS Contracts
6. Appendix A-3: Federal Assurances and Certifications (when applicable)
7. Appendix B: Budget and Instructions
8. Appendix C: Payment and Reporting Schedule

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9. Appendix D: Work Plan
10. Appendix HIPAA (when applicable)
11. Appendix MWBE
12. Appendix X

This sample contract is located on the **OCFS website** at the following link:
<https://ocfs.ny.gov/main/contracts/docs/Non-Grant-Contract-Template.pdf>.