



**Office of Children
and Family Services**

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**New York State
Office of Children and Family Services
Division of Administration
Bureau of Training and Development**

Non-Grant Procurement

REQUEST FOR PROPOSALS

RFP # 2018-23

Audio-Visual Studio and Production Services

Issued: 2/28/2019

Amended: 3/27/2019

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1.0 GENERAL INFORMATION/CALENDAR OF EVENTS

The purpose of this Request for Proposals (RFP) is to contract for the delivery of high quality audio-visual studio and production services to be utilized to enhance training services delivered through the New York State Office of Children and Family Services (OCFS) Bureau of Training and Development (BTD) on a cost effective, as-needed basis.

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

Note: Throughout this document, the terms *proposals*, *bids*, *offers*, and *applications* are used interchangeably, as are *applicants*, *bidders*, and *offerers*.

If the offerer discovers any ambiguity, conflict, discrepancy, omission, or other error in this RFP, the offerer shall immediately notify OCFS (see **Section 1.1 Procurement Integrity/Restrictions on Communications**) of such error in writing and request clarification or modification of the document.

If, prior to the deadline for submission of written questions, an offerer fails to notify OCFS of a known error in or omission from the RFP, or of any error or omission or prejudice in bid specification or documents with the RFP that the offerer knew or should have known, the offerer agrees that it will assume such risk if awarded funds, and the offerer agrees that it is precluded from seeking further administrative relief or additional compensation under the contract by reason of such error, omission, or prejudice in bid specification or documents.

1.1 Procurement Integrity/Restrictions on Communication

This procurement is subject to, and shall be conducted in accordance with the New York State Finance Law, including but not limited to Article IX. Contracts §§ 139-j. and 139-k.

Please be advised that state law prohibits any vendor from exerting or attempting to exert any improper influence relating to its proposal. "Improper influence" means any attempt to achieve preferential, unequal, or favored consideration of a proposal based on considerations other than the merits of the proposal, including but not limited to, any conduct prohibited by the Ethics in Government Act, as set forth in Public Officers Law §§ 73 and 74.

All inquiries concerning this procurement must be addressed to the director of contracts in the RFP unit or his/her designee(s) at OCFS, via email (preferred) RFP@ocfs.ny.gov or via hard copy mailed to:

Director of Contracts
Questions for RFP # 2018-23 Audio-Visual Studio and Production Services
Office of Children and Family Services
52 Washington Street
Room 202S – RFP Unit
Rensselaer, NY 12144

“Restricted period” means the period of time commencing with the earliest posting, of written notice, advertisement, or solicitation, including but not limited to on a governmental entity’s website, in a newspaper of general circulation, or in the NYS Contract Reporter, of an RFP intending to result in a procurement contract with OCFS and ending with the final contract award by OCFS or, where applicable, final contract approval by the NYS Office of the State Comptroller (OSC), Bureau of Contracts.

During the “restricted period,” as defined above, no offerer-initiated contact with any OCFS official shall be permitted regarding this procurement, except as provided herein. This prohibition applies to any oral, written, or electronic communication under circumstances where a reasonable person would infer that the communication was intended to influence this procurement. Violation of any of the requirements described in this **Section 1.1 Procurement Integrity/Restrictions on Communications** may be grounds for a determination that the offerer is non-responsible and therefore ineligible for this contract award. Two violations within four years of the rules against impermissible contacts during the “restricted period” may result in the violator being debarred from participating in an OSC procurement for a period of four years.

1.2 Calendar of Events

RFP # 2018-23 Audio-Visual Studio and Production Services	
EVENT	DATE
Issuance of Request for Proposals	2/28/2019
Informational Meeting/Technical Assistance Sessions/Bidders Conference	Not Applicable
Deadline for Submission of Written Questions (See Section 1.4)	3/14/2019 by 5:00 PM Eastern Time
Responses to Written Questions Posted (See Section 1.4)	3/26/2019
Deadline for Submission of Proposals	4/9/2019 by 4:00 PM Eastern Time
Anticipated Notification of Award (not earlier than)	4/23/2019
Anticipated Contract Start Date (not earlier than)	6/1/2019

1.3 Informational Meeting/Technical Assistance Session

Not Applicable.

1.4 Submission of Written Questions

All communications to report errors or omissions in the procurement process or to ask questions or to request clarification of this RFP should cite the particular RFP section and paragraph number and must be submitted via email (preferred) RFP@ocfs.ny.gov, or via hard copy mailed to the director of contracts no later than the deadline for submission of written questions specified in **Section 1.2 Calendar of Events**. Questions received after the deadline for posting responses to written questions may not be answered. The comprehensive list of questions and responses will be posted on the OCFS website (<http://ocfs.ny.gov/main/bcm/rfp.asp>) and the NYS Contract Reporter website at (<https://www.nyscr.ny.gov/login.cfm>) on the date specified in **Section 1.2 Calendar of Events**.

1.5 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 RFP prior to the due date for the submission of proposals;
3. reject any or all proposals received in response to the RFP;
4. withdraw the RFP at any time at the agency's sole discretion;
5. make an award under the RFP in whole or in part;
6. disqualify any bidder whose conduct and/or proposal fails to conform to the requirements of the RFP;
7. reject any proposal if, in the sole discretion of OCFS, it determines the bidder is not a responsible vendor;
8. seek clarification and revisions of proposals. Request bidders to present supplemental information clarifying their proposals either in writing or by formal presentation. Other than the requested clarification and supplemental information, submission of new information is not permitted;
9. require that bidders demonstrate, to the satisfaction of OCFS, any feature(s) present as a part of their proposal, which may include an oral presentation of their proposal. Any such demonstration or presentation may be considered in the evaluation of the proposal;
10. amend any part of this RFP prior to opening of bids, with notification to all bidders, and direct all bidders to prepare modifications addressing RFP amendments, if necessary. Expenses incurred in the preparation

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of any proposals or modifications submitted in response to this RFP are the sole responsibility of the bidder or other party and will not be incurred or reimbursed by OCFS;

11. make funding decisions that maximize compliance with and address the outcomes identified in this RFP;
12. fund only one portion, or selected activities, of the selected bidder's proposal and/or adopt all or part of the selected bidder's proposal based on federal and state requirements;
13. eliminate any RFP requirements that cannot be met by all prospective bidders upon notice to all parties that submitted proposals;
14. waive procedural technicalities or modify minor irregularities in proposals received after notification to the bidder involved;
15. correct any arithmetic errors in any proposal or make typographical corrections to proposals with the concurrence of the bidder;
16. negotiate with the selected bidder(s) prior to contract award;
17. conduct contract negotiations or award a contract to the next highest bidder if contract negotiations with the selected bidder(s) cannot be accomplished within an acceptable time frame. No bidder will have any rights against OCFS arising from such actions;
18. award contracts to more than one bidder or to other than the lowest bidder;
19. require that all proposals be held valid for a minimum of 180 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 RFP. However, issuance of this RFP does not commit OCFS to fund any proposals. OCFS can reject any proposals submitted and reserves the right to withdraw or postpone this RFP without notice and without liability to any bidder or other party for expenses incurred in the preparation of any proposals submitted in response to this RFP and may exercise these rights at any time;
21. use the proposal submitted in response to this RFP 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;
22. utilize any and all ideas submitted in the proposals received where an award is ultimately made;

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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 offerer's proposal and/or to determine an offerer's compliance with the requirements of the solicitation;
24. make additional awards based on the remaining proposals submitted in response to this RFP and/or provide additional funding to awardees if such funds become available;
25. make inquiries of third parties, including but not limited to, bidders' 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 RFP, 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, including borough distribution methodology, in evaluating proposals;
28. rescind awards for failure of awardees to meet timeframes that OCFS is required by statute to meet for contract development and approval;
29. cancel this RFP, in whole or in part, at any time and to reject any and all proposals when appropriate in the best interests of the state; and
30. make adjustments to the funding amount requested based on program need and based on the total dollar value of the applications submitted.

Prior to the deadline for submission of proposals, any such clarifications or modifications as deemed necessary by OCFS will be posted in the NYS Contract Reporter, and on the OCFS website. Potential offerers that were sent the original bid notice via email will receive an email from the RFP unit regarding the clarifications or modifications. All other individuals will have to check the NYS Contract Reporter or the OCFS website for any changes and check the posted Q&As.

2.0 EXECUTIVE OVERVIEW

2.1 Purpose and Procurement Objectives

Distance learning, that utilizes both proven and new technologies, is a necessary option in today's environment of lean staffing, limited budgets, and increased demands on the public sector to deliver services. Human services

staff are required to have specialized training to be effective in the workplace. The focus of this solicitation is to provide the OCFS with the capability to produce webcasts, videos, audio recordings, and other related media products in support of the agency's mission and priorities. For decades, in the interest of enhancing training services, OCFS has maintained and staffed an audio-visual studio, through a training contract, at the OCFS Home Office complex at 52 Washington Street, Rensselaer, New York 12144. As the demand for broadcast services has dropped dramatically with the advent of webcasts, video streaming, and other online services, the OCFS studio was closed at the end of 2018. The purpose of this procurement is to establish a contract for audio-visual studio and production services that will be utilized for specific audio-visual products on an as-needed basis. Services to be provided will include, but are not limited to, all facets of long and short form video production, script development, editing, graphic design, animation services, live streaming of webcasts to select audiences from the vendor's studio, audio recording, voice overs, recording and editing of live training and conferences presented through the OCFS training plan.

2.2 Background

OCFS serves New York's public by promoting the safety, permanency and well-being of our children, families and communities. We achieve results by setting and enforcing policies, building partnerships, providing funding, and delivering quality services.

OCFS is dedicated to improving the integration of services provided to New York's children, youth, families and vulnerable populations; promoting their development; and protecting them from violence, neglect, abuse and abandonment. The agency provides a system of family support, juvenile justice, child care and child welfare services that promote the safety and well-being of children and adults.

The OCFS' Bureau of Training and Development (BTD) has the responsibility of the training and development of all OCFS employees, 58 local social services districts, child welfare community-based agencies, and the child care provider community. Trainings for state staff OCFS Juvenile Justice facility staff, management and supervisory training, computer training, and employee development training.

BTD is responsible for providing training and training support to all local social services districts for all the child and family services programs administered by OCFS. These include: child welfare preventive services, child protective services, foster care and adoption services, and adult protective services. In addition, BTD provides training to regulated and OCFS licensed child care providers, staff of residential childcare agencies and foster and adoptive parents.

In order to improve training services and increase the capacity to train human services staff throughout New York state, OCFS opened a new Human Services Training Center (HSTC) facility in Rensselaer, NY in early 2019.

2.3 Term of Contract

The contract awarded in response to this RFP will be for five (5) years. The anticipated start date is 6/1/2019, and the anticipated end date is 5/31/2024. Funding is anticipated to be available for the first year of the contract. The award of a multi-year contract does not guarantee that funding will be available for subsequent years. 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 that has been approved by the Office of the Attorney General and the Office of the State Comptroller.

Please Note: There is no guaranteed level of utilization for the deliverables of the resulting contract. These deliverables will be utilized by OCFS on an as-needed basis. All quantities are based on the anticipated needs of OCFS.

3.0 MINIMUM QUALIFICATIONS TO PROPOSE

3.1 Minimum Qualifications (Amended 3/27/2019)

The minimum qualifications required to submit a proposal are as follows:

- Bidders must have, and describe in their proposal, at least five (5) years of experience in the provision of audio-visual studio and production services including full-scale video production; graphic design and animation services, script development, editing, audio and video recording of live events in the field, and graphic design and animation.
- Bidders must supply contact information for at least five (5) corporate and/or government customers the month and year services began and ended (or indicate services are through current month and year), and include a detailed description of the services provided for each. Bidders should provide the name, address, phone/fax numbers, email address, and website (if applicable) for each identified contact. **Please see RFP Section 6.7 Reference Checks for additional information.**
- Bidders must maintain a fully equipped audio/video production studio within a 20-mile radius of the OCFS Human Services Training Center (HSTC) at **165 164** Columbia Turnpike, Rensselaer, NY 12144 over the term of the contract. Bidders must identify the location of the production studio and should provide a full description of their facility including full audio, video, animation, and editing equipment lists. Proof of bidder ownership or unfettered access to the facility must be provided in the form of a letter to include the full address of the studio location, whether the site is owned or leased by the bidder, length of the lease (if applicable) and contact information of the property owner on their letterhead. If the lease is for less than the contract term, the bidder must include a separate

letter on their letterhead signed by the individual authorized to bind the bidder committing to maintain a studio within a 20-mile radius of the OCFS complex in Rensselaer, NY over the term of the contract, unless the bidder goes out of business. The property owner may be the bidder or bidder's landlord.

- Bidders must agree that they have read and agree to the terms of **Attachment 3 – OCFS BTD Copyright Policy** by responding “Yes” on **Attachment 1 – Proposers Certified Statements**. **Please Note:** Attachment 1 is a mandatory requirement and **must** be completed and included in your proposal.

3.2 Vendor Responsibility Requirements

Section 163(9)(f) of the New York State Finance Law requires that a state agency make a determination that a bidder is responsible prior to awarding that bidder a state contract. Vendor responsibility will be determined based on the information provided by the bidder, on-line, 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 its sole discretion, it determines the bidder is not a responsible vendor. All proposals are subject to a 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 the New York State Office of the State Comptroller (OSC). Vendors must maintain their vendor responsibility throughout the duration of the contract.

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 Request for Proposals from any state agency would only need to be updated in the VendRep System.

To access or enroll in the VendRep System or update your existing online questionnaire, click [On-line 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 hardcopy notarized questionnaire, then it also must 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 questionnaires depending on the contractor status. Not-for-profit vendors must use the *Vendor Responsibility Questionnaire Not-For-Profit Business Entity* form. For-profit vendors must use the *Vendor Responsibility Questionnaire For Profit Business Entity* form.

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 must 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.state.ny.us.

The New York State VendRep System offers the following benefits:

- 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 On-Line System contains links to all definitions of the terms used in the questionnaire.

Note: The *Vendor Responsibility Questionnaire* 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.

Confirmation of **completion** of the vendor responsibility process must be submitted with your proposal. This confirmation can take the form of registration in the VendRep system, or by submitting your completed hardcopy questionnaire. To submit this confirmation with your application, go to the bottom of your certified questionnaire, and click the button called "Form Overview." Print this page and include it with your proposal.

4.0 SCOPE OF WORK

Bidders will be required to provide fixed amount bids for deliverables 1 and 2 listed below in their cost proposals. All deliverables listed below are subject to review and written approval by OCFS BTD prior to implementation.

Please Note: There is no guaranteed level of utilization for the deliverables listed below. These deliverables will be utilized by OCFS on an as-needed basis. All quantities are based on the anticipated needs of OCFS.

Deliverable 1: Webcasts

Description: The Training Vendor will produce and broadcast three (3) webcasts annually. Webcast will include

- Pre- and post-planning and coordination of all activities associated with the webcast, inclusive of the development of a detailed project workplan to include production meetings, content review and approval;
- working with the OCFS program area staff and BTD training manager(s) to provide cost-effective, creative development to maximize the use of the medium to achieve learning objectives;
- developing content based on information provided by BTD curriculum development staff and OCFS subject matter experts;
- providing webcasts broadcasted from the vendor's studio which are approximately ninety (90) minutes in length. Pre-recorded footage may also be required;
- directing production and broadcast activities including rehearsal, makeup and wardrobe services;
- providing OCFS approved on-screen talent to act as a moderator/host;
- developing site activities to increase inter-activity with the audience; and
- providing technical assistance to trainees as needed.

The Training Vendor will develop specific purposes and learning objectives for each webcast, including customized curriculum/materials to target the needs of specific populations and to meet identified learning objectives. This activity includes preparation of the completed webcast product in a format suitable for posting on an e-learning platform, which must be approved by BTD for OCFS usage.

Bidders will be asked to provide fixed cost bids per webcast for a total of three (3) webcasts in their cost proposal.

Deliverable 2: Long Form Video Product

Description: The vendor will provide a minimum of one (1) long form video product annually. Customized curriculum/materials will be developed as needed to target the needs of specific populations and to meet identified learning objectives. The

training vendor will carry out all associated tasks with the production of a long-form video, including:

- production of a video estimated to be no less than 30 minutes and no more than one (1) hour in length;
- pre-production consultation, monthly status meetings (phone or in-person) and project management will be required to plan and coordinate activities related to video production inclusive of the development of a detailed project workplan to include production meetings, content review and approval;
- collaboration with the BTD training manager (s) to develop cost-effective creative treatment (pre-production documents that summarize a video's concept and define the creative slant of the final product) to achieve learning objectives;
- development of scripts in collaboration with BTD curriculum development staff and OCFS subject matter experts;
- directing, editing, and production of the video;
- providing up to five (5) principal actors and associated services (as needed). OCFS will have the final say on casting decisions;
- providing make-up and wardrobe services as needed;
- provide one narrator and associated audio studio requirements to record the narration; and
- providing one (1) music license for background music.

This activity also includes preparation of a completed video product in a format suitable for posting, on an e-learning platform, which must be pre-approved by BTD for OCFS usage. During the term of the agreement, a minimum of ten (10) copies of the product in DVD format will be required. All files will be provided in their native and raw editable format upon the completion of the project.

Bidders will be asked to provide a fixed-cost bid per Long Form Video Product in their cost proposal.

Deliverable 3: Emerging Needs

Bidders will include in their cost proposals hourly rates for various staff, facility and equipment charges related to providing services including:

Activity Title: Minor Video Products

Description: At the direction of OCFS, provide flexible, customized video services for more immediate, short term assignments or projects that do not require the creation of a standard long-form video product. This may include, but is not limited to, assignments such as taping and providing minor editing of a conference presentation or classroom training, updating of a previously developed video project, updating the New York State Fair looping video, creating a short video clip to be utilized in a larger training product or activity, etc. All products must be provided in their native and raw editable format for OCFS review and approval and all final product submissions.

Activity Title: Audio Records

Description: Provide professional audio recordings, voice-overs, etc. for scripts that are written in collaboration and approved by OCFS. Scripts may vary in length and number of voices/characters needed. All products must be provided in their native and raw editable format for OCFS review and approval and all final product submissions.

Activity Title: Graphic Design and Animation Services

Description: Provide customized graphic artistry and animation services for inclusion in larger scale training media such as computer based trainings. Any required scripts, storyboards, etc. will be developed in cooperation with BTD curriculum development staff and OCFS subject matter experts. All products must be provided in their native and raw editable format for OCFS review and approval and all final product submissions.

Activity Title: Provision of Actors for Audio/Video Projects and Improvisational Learning Activities and Simulations

Description: Provide talent casting and actor services for OCFS video products and improvisational simulation training. All casting decisions are subject to the final written approval of OCFS BTD. Actors for video production will be directed by the vendor. Actors for improvisational learning activities will be directed by OCFS.

Activity Title: Additional Webcasts and Long Form Video Products

Description: Dependent upon the length and scope of the work, OCFS BTD will decide the rate that may be charged for additional work as described under deliverables 1 and 2. This rate will either be the applicable cost per offering for deliverables 1 and 2 or the emerging needs hourly rate(s) for the required personnel proposed by the vendor in its bid.

Job titles and services anticipated to be utilized will include: Producer, Director, Camera Operator, Video Technician (Gaffer, Grip, etc.), Audio Technician (Sound Engineer, etc.), Audio/Video Editor, Production Assistant, Script writer, Graphic Artist/Animator, Actor, Video Studio Rental, Audio Studio Rental, Field Shoot - Audio Equipment, and Field Shoot - Video Equipment.

Travel: Minimal travel outside the capital district is anticipated for the performance of these services. It is anticipated that an amount of \$5,000 per year will be added to the contract award amount resulting from this solicitation for any vendor travel required by OCFS BTD. All travel is subject to written pre-approval of OCFS BTD. Reimbursement of travel that has been approved by OCFS BTD is subject to the New York State Office of the State Comptroller (OSC) Travel Manual which can be found at:

<https://www.osc.state.ny.us/agencies/travel/manual.pdf>

All products and materials resulting from this procurement must adhere to New York State Branding Guidelines which can be found at:

https://ocfs.ny.gov/ohrd/OMTV/OMTVfinal/NYS_GUIDELINES.PDF

5.0 PROPOSAL REQUIREMENTS

5.1 General

5.1.1 Incurred Costs

Neither New York State nor OCFS shall be liable for any costs incurred by an offerer in the preparation and production of a proposal. Neither New York State nor OCFS shall be liable for any costs incurred for work performed by the offerer under the contract prior to the approval of, an executed contract or future task order by the New York State Office of the State Comptroller (OSC).

5.1.2 Content of Proposals

To be considered responsive, an offerer must submit complete proposals, which are in compliance with all applicable state and federal laws, rules, and regulations and satisfy all of the requirements stated in this RFP. Proposals not conforming to the proposal requirements as specified in this **section 5.0** may be rejected as nonconforming. The offerer's proposals must include a statement that the proposal will remain valid for a period of 180 days.

5.1.3 Security, Nondisclosure and Confidentiality Agreement

The content of each bidder's proposal will be held in strict confidence by New York State and OCFS during the bid evaluation process and will not be disclosed except to the evaluation panels, and to the NYS Office of the Attorney General and the NYS Office of the State Comptroller as may be necessary to obtain the approvals of those agencies for the final Contract and except as required by law. The successful bidder's proposal and a copy of the specifications will be made a part of the contract and hence available for public inspection and disclosure.

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 bidders, 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 bidder. 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 bidder.

Bidders/contractors intending to seek an exemption from disclosure of these materials under the FOIL 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 a bidder’s proposal unless DOB grants a petition for records access in accordance with FOIL.

Bidders 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 bidder, would not alter the rights and responsibilities of either party under FOIL. Bidders should not include with their bid a nondisclosure agreement for DOB employees, as it would not alter the provisions of the FOIL or the code of ethics with respect to the disclosure.

The provisions of the FOIL will also govern the confidentiality of any and all products or services supplied by the successful bidder.

5.2 Overview of Submission Requirements

This section identifies the information that all bidders must include in their proposals to the OCFS.

For the purposes of evaluation, each proposal must be submitted in three parts:

- Part I is the Administrative Proposal
- Part II is the Technical Proposal
- Part III is the Cost Proposal

Each part must be complete in itself for an independent and concurrent evaluation of each part. Cost information is **not** to be included in the Administrative Proposal or the Technical Proposal. Each part must be **sealed separately**.

The requirements for proposal content and format will be enforced. Failure by an offerer to respond to a requirement stated in this RFP may cause the proposal to be found non-responsive and the proposal disqualified.

All proposals and accompanying documentation submitted in response to this RFP will become the property of the State of New York and will not be returned. The content of each bidder's proposal will be held in strict confidence during the bid evaluation process, and no details of any proposal will be discussed outside the evaluation process. The successful bidder's proposal and the RFP will be made part of the contract. Therefore, only an individual who is authorized to legally bind the offerer may sign the proposal.

5.3 Part I - Administrative Proposal

Each offerer's administrative proposal must include the following documentation:

5.3.1 General Proposal Appearance

A. Binding

The Administrative Proposals must be separately bound and may be submitted together inside a sealed envelope. Each offerer will submit its proposal so that update pages can be easily incorporated into the original proposal. Acceptable methods include, but are not limited to, three-ring binders and binder clips. **Do not use staples or spiral wire binding.**

B. Front Cover

The legal name of the organization and the RFP number must appear on the outside front cover of each copy of the proposal. The original copy should be clearly labeled.

C. Table of Contents

The Administrative Proposal must contain a table of contents. It is through this table of contents that OCFS will evaluate conformance to uniform proposal content and format.

D. Index Tabs

The Administrative Proposal must have all major sections labeled with index tabs or dividers that completely identify the titles of the major sections as they are named in the table of contents. Index tabs are not required between individual forms.

E. Page Numbering

Each page of the Administrative Proposal must be numbered consecutively from the beginning of the respective proposal through all appended material. Consecutive numbering of pages within consecutively number sections of the proposal is an acceptable alternative.

F. Font

Administrative Proposals should utilize 12-point font. Arial, Times New Roman, and Calibri fonts are considered acceptable.

G. Margins

Administrative Proposals should utilize standard one-inch margins. It is permissible to use Headers and Footers inside the margins.

5.3.2 Proposal Content

The following is a list of required forms and documents that must be included in the Administrative Proposal. Most can be accessed electronically throughout this RFP and via the links below. Those available only in hard copy are identified and attached in this section of the RFP.

The forms in the financial proposal are designed to facilitate proposal evaluation and to standardize responses to this RFP. The offerer must submit them in their proposal to streamline the evaluation process.

Required with bid submission:

- A. [Appendix A-3, Federal Assurances and Certifications](#)
- B. [MacBride Fair Employment Principles Certification Form \(OCFS-2633\)](#)
- C. [Non-Collusive Bidding Certification \(OCFS-2634\)](#) (required by Section 139d of the State Finance Law)
- D. For complete proposal and contract or MOU requirements for the Minority-and-Women-Owned Business Enterprises (MWBE) and Equal Employment Opportunity (EEO) requirements, refer to section 7.6. The following are forms to be completed and submitted with your Administrative Proposal and can be found [here](#).
 - [Project Staffing Plan Form \(OCFS-4629\)](#)
 - [Minority and Women-Owned Business Enterprises \(MWBE\) Equal Employment Opportunity \(EEO\) Policy Statement \(OCFS-3460\)](#)
 - [MWBE Utilization Plan Form \(OCFS-4631\)](#)
- E. Additional Submission Requirements:
 - [Procurement Lobbying Act – Offerer Certification Form \(OCFS-4822\)](#)
 - [State Consultant Services – Contractors Planned Employment \(AC-3271-S\)](#) (See section 7.15 for more information)

- [EO 177 Certification](#) (OCFS-2647) (See section 7.23 for more information.)
- Vendor Responsibility Questionnaire (If applicable, see section 3.2 for questionnaire and more information.)
- Offerers must list and clearly explain any and all exceptions and/or caveats to any item contained in this RFP or sample contract language. All exceptions and/or caveats included in the proposal will be reviewed and only those of a non-substantive nature will be considered for inclusion in a final contract. Those of a substantive nature will need to be rescinded in writing by the offerer or the proposal will be disqualified as non-conforming.
- **Attachment 1 – Proposer’s Certified Statements (Mandatory document to be completed and included in the Proposal.)**

5.4 **Part II - Technical Proposal (Amended 3/27/2019)**

Each offerer's technical proposal must include separate responses to the following requirements. Such responses shall be placed in the technical proposal in the same order as shown below. The responses shall cite clearly the RFP section # of the appropriate proposal response requirement.

5.4.1 **General Proposal Appearance**

A. Binding of Proposal

The Technical Proposals must be separately bound and may be submitted together inside a sealed envelope. Each offerer will submit its proposal so that update pages can be easily incorporated into the original proposal. Acceptable methods include, but are not limited to, three-ring binders and binder clips. **Do not use staples or spiral wire binding.**

B. Front Cover

The legal name of the organization and the RFP number must appear on the outside front cover of each copy of the proposal. The original copy should be clearly labeled.

C. Table of Contents

The Technical Proposal must contain a table of contents. It is through this table of contents that OCFS will evaluate conformance to uniform proposal content and format requirements.

D. Index Tabs

The Technical Proposal must have all major sections labeled with index tabs or dividers that completely identify the titles of the major sections as they are named in the table of contents. Index tabs are not required between individual forms.

E. Page Numbering

Each page of the Technical Proposal and the Cost Proposal must be numbered consecutively from the beginning of the respective proposal through all appended material. Consecutive numbering of pages within consecutively number sections of the proposal is an acceptable alternative.

F. Font

Technical Proposals should utilize 12-point font. Arial, Times New Roman, and Calibri fonts are considered acceptable.

G. Margins

Administrative Proposals should utilize standard one-inch margins. It is permissible to use Headers and Footers inside the margins.

5.4.2 Proposal Content

Proposal Section 1 - *Executive Summary*

Offerers must submit an executive summary which must contain the following information:

1. The offerer's name, address, phone/fax numbers, and designation of the individual authorized to negotiate any contract that might result from this RFP.
2. The **email address** of the individual authorized to negotiate any contract that might result from this RFP.
3. The name, address, phone/fax numbers, and designation of other individual(s) who should receive notifications regarding this proposal (please specify in writing if not applicable).
4. The **email address** of other individual(s) who should receive notifications regarding this proposal (please specify in writing if not applicable).
5. A brief history of the organization.
6. The full array of services performed by the organization and relevant notable accomplishments.
7. Location of the offerer's audio-visual studio.
8. The offerer's understanding of the requirements presented in the RFP.
9. Value added services that the bidder's organization can provide to improve services/products delivered at no additional cost.
10. Any proposed sub-contractors or sub-offerers and their scope of work must be identified in the executive summary.

Proposal Section 2 - *Minimum Qualifications to Propose*

As required by Section 3.1 of this RFP the following information must be provided:

- Bidders must have, and describe in their proposal, at least five (5) years of experience in the provision of audio-visual studio and production services including full-scale video production; graphic design and animation services, script development, editing, audio and video recording of live events in the field, and graphic design and animation.
- Bidders must supply contact information for at least five (5) corporate and/or government customers the month and year services began and ended (or indicate services are through current month and year), and include a detailed description of the services provided for each. Bidders should provide the name, address, phone/fax numbers, email address, and website (if applicable) for each identified contact. **Please see RFP Section 6.7 Reference Checks for additional information.**
- Bidders must maintain a fully equipped audio/video production studio within a 20-mile radius of the OCFS Human Services Training Center at **465 164** Columbia Turnpike, Rensselaer, NY 12144 over the term of the contract. Bidders must identify the location of the production studio and should provide a full description of their facility including full audio, video, animation, and editing equipment lists. Proof of bidder ownership or unfettered access to the facility must be provided in the form of a letter to include the full address of the studio location, whether the site is owned or leased by the bidder, length of the lease (if applicable) and contact information of the property owner. on their letterhead. If the lease is for less than the contract term, the bidder must include a separate letter on their letterhead signed by the individual authorized to bind the bidder committing to maintain a studio within a 20-mile radius of the OCFS complex in Rensselaer, NY over the term of the contract, unless the bidder goes out of business. The property owner may be the bidder or bidder's landlord.
- Bidders must agree that they have read and agree to the terms of **Attachment 3 – OCFS BTD Copyright Policy** by responding "Yes" on the **Attachment 1 – Proposers Certified Statements**. **Please Note:** Attachment 1 is a mandatory requirement and **must** be completed and included in your proposal.

Proposal Section 3 - *Experience*

The information provided in response to this section should demonstrate the Offerer's ability to meet the requirements outlined in RFP **Section 4.0 Scope of Work**.

Organizational and Staff Experience:

Provide a comprehensive description of the bidder's experience in providing audio-visual studio and production services including, but not limited to, the activities described below. Submit an Organization chart and Resumés of all the proposed personnel that will be involved in the provision of these services including management and the staff members proposed for the titles in Deliverable 3 must be provided. Please identify on each résumé the job title each staff member is being proposed for. If your organization does not provide an indicated job title, discuss the plan to subcontract or hire employees to fill those roles. Fully describe the organization's capacity and experience in providing additional staff on an as-needed basis.

Provide detailed information for each of the three deliverables:

Deliverable 1: Webcasts

Provide a description of the full range of the bidder's experience and capability in the production and delivery of webcasts including the broadcast date, client name and description of the purpose and content. Offerers must submit one previously recorded webcast produced by the proposer for a past project for the evaluation committee's review. Submissions may be on DVD, thumb-drive or web link. DVD and thumb-drive submissions should be included with each copy of the technical proposal. Include the current staff names that worked on the video.

Deliverable 2: Long Form Video Product

Provide a description of the full range of experience and capability in the production and delivery of long form video products including the broadcast date, client name and description of the purpose and content. Offerers must submit one previously recorded long form video product produced by the proposer for a past project for the evaluation committee's review. Submissions may be on DVD, thumb-drive or web link. DVD and thumb-drive submissions should be included with each copy of the technical proposal. Include the current staff names that worked on the video.

Deliverable 3: Emerging Needs

Fully describe offerer experience and capability in providing the following services:

1. Minor Video Products – offerers must submit a sample of one previously recorded minor video product produced by the proposer for a past project for the evaluation committee review. The sample must include a written explanation that describes the organization’s role and level of direction from the client or freedom in creating the sample. The sample can be submitted on any storage medium (flash drive, cd, dvd or other)
2. Audio Records - offerers must submit a sample of one previously recorded audio record produced by the proposer for a past project for the evaluation committee review. The sample must include a written explanation that describes the organization’s role and level of direction from the client or freedom in creating the sample. The sample can be submitted on any storage medium (flash drive, cd, dvd or other)
3. Graphic Design and Animation Services - offerers must submit a sample of one graphic design and animation service produced by the proposer for a past project for the evaluation committee review. The sample must include a written explanation that describes the organization’s role and level of direction from the client or freedom in creating the sample. The sample can be submitted on any storage medium (flash drive, cd, dvd or other)
4. Provision of Actors for Audio/Video Projects and Improvisational Learning Activities and Simulations.
5. Additional Webcasts and Long-Form Video Products.

Job titles anticipated to be utilized will include: Producer, Director, Camera Operator, Video Technician (Gaffer, Grip, etc.), Audio Technician (Sound Engineer, etc.), Audio/Video Editor, Production Assistant, Script writer, Graphic Artist/Animator, and Actor.

Please Note: Rates and other cost data must not be included in your technical proposal. This information must only be included in your Cost Proposal. Please see **Section 5.5 Part III – Cost Proposal** for additional information.

5.5 Part III - Cost Proposal

The information requested will be held in confidence and will not be revealed to or discussed with other bidders, except as required by applicable laws, rules and regulations. The offerer's cost proposal must be kept separate from their technical proposal and must include:

- A completed and signed **Attachment 2 – Cost Proposal**. The Cost Proposal must comply with the mandatory format and content requirements as detailed in this RFP and in **Attachment 2**. Failure to comply with the mandatory format and content requirements will result in disqualification.
 - The **Attachment 2** submitted with your proposal must be signed by an individual who is authorized to legally bind the offerer in a contract; and
 - By signing the **Attachment 2**, the offerer certifies that the proposal remains valid for a minimum of 180 days from the proposal due date.

Note: Attachments can be found on the NYS Contract Reporter and the OCFS website. Please download them from one of these locations, complete them, and include them with your proposal.

Instructions for Completing Attachment 2 – Cost Proposal

The cost proposal document is an Excel worksheet with fixed formulas that reflects the **total annual costs** proposed by the bidder. Enter only the information instructed below:

Section 1: Enter **Bidder's Organization Name**

Section 2: Enter the **Cost per Offering** for Deliverable 1 and Deliverable 2

Section 3: Enter the **Cost per Hour** for all requested job titles and services. If your organization does not provide the job title or service requested, enter your proposed rate to subcontract or hire employees to fill those job titles or services.

Section 4: An individual authorized to sign on behalf of the bidder's organization must provide his/her dated signature, printed name, and job title.

5.6 Submission of Proposals

- A. Proposals must be signed by an individual who is authorized to legally bind the offerer to the provisions of the proposal.

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- B. Offerers mailing their responses must allow sufficient mail delivery time to ensure that OCFS receives their proposal within the time frames indicated in **Section 1.2 Calendar of Events**.
- C. The Administrative Proposals, Technical Proposals, and Cost Proposals must each be separately bound and submitted in separately sealed envelopes. A sealed envelope may contain multiple proposals of the same type (i.e. three Administrative proposals can go in one envelope). Administrative Proposals, Technical Proposals and Cost Proposals must be sealed in separate envelopes. The sealed envelopes may be shipped together inside the same box. Each offerer must submit its proposal so that update pages may be easily incorporated into the original proposal. The following information must appear on the outside front cover of each proposal copy and displayed on the exterior of the packaging:
- Offerer's legal name and address
 - RFP # 2018-23 Audio-Visual Studio and Production Services
 - Administrative Proposal, Technical Proposal or Cost Proposal
 - Original or copy
 - Date
- D. Bidders assume all risks for timely, properly submitted delivery of proposals. Bidders are strongly encouraged to arrange for delivery of proposals to OCFS prior to the proposal due date referenced in **Section 1.2 Calendar of Events**. LATE PROPOSALS may not be accepted. Email and fax bid submissions are not acceptable and will not be considered.
- E. Mail or deliver proposals to:

Director of Contracts
Proposal for RFP # 2018-23 Audio-Visual Studio and Production
Services
New York State Office of Children and Family Services
52 Washington Street
Room 202S – RFP Unit
Rensselaer, NY 12144

- **Three (3) hard copies** (including at least one original) of the Administrative Proposal and one electronic copy on a flash drive (in PDF and MS Word format – the PDF must be exact replica of hard copy, including signatures). In the event of a discrepancy between copies, the hard copy will take priority.)
- **Five (5) hard copies** (including at least one original) of the Technical Proposal and one electronic copy on a flash drive (in PDF and MS Word format – the PDF must be exact replica of hard copy, including signatures). In the event of a discrepancy between copies, the hard copy will take priority.)
- **Three (3) hard copies** (including at least one original) of the Cost Proposal and one electronic copy on a flash drive (in scanned and

Excel format – the PDF must be exact replica of hard copy, including signatures). In the event of a discrepancy between copies, the hard copy will take priority.)

Proposals must be received by the due date and time identified in **Section 1.2 Calendar of Events**. Proposals received after the Deadline for Submission of Proposals may be rejected.

- F. By submitting a proposal, the bidder warrants that it has carefully reviewed the needs of the state (as described in this RFP, its attachments and other communications related to this RFP), has familiarized itself with the specifications and requirements of this RFP and warrants that it can provide such products and services as represented in bidder's proposal. The bidder agrees that it will perform all of its obligations should it be awarded a contract in accordance with all applicable federal, state, and local laws, rules, regulations and policies that are now or hereafter in effect and any revisions of such laws, rules, regulations and policies. The bidder affirms that the terms of this RFP do not violate any contracts or agreements to which the bidder is a party, and that its other contractual obligations will not adversely influence its capabilities to perform the scope of work and requirements of this RFP.
- G. All proposals and accompanying documentation become the property of the state and will not be returned.
- H. Receipt of proposals as a general rule, late proposals cannot be accepted. However, if permitted by agency policy and if no timely and responsive proposals are received, a late proposal may be accepted. The agency must certify that proposals were received in accordance with the RFP.

6.0 EVALUATION AND SELECTION METHODOLOGY

6.1 General Information

OCFS will evaluate each proposal based on the "Best Value" concept. This means that the proposal that best "optimizes quality, cost, and efficiency among responsive and responsible offerers" shall be selected for award (New York State Finance Law, Article 11, §163[1][j]).

OCFS, at its sole discretion, will determine which proposal(s) best satisfies its requirements. OCFS reserves all rights with respect to the award. All proposals deemed to be responsive to the requirements of this procurement will be evaluated and scored for technical qualities and cost. Proposals failing to meet the requirements of this document may be eliminated from consideration. The evaluation process will include separate technical and cost evaluations, and the result of each evaluation shall remain confidential until both evaluations have been completed and a selection of the winning proposal is made.

The evaluation process will be conducted in a comprehensive and impartial

manner, as set forth herein, by an evaluation committee. The Technical Proposal and compliance with other RFP requirements (other than the Cost Proposal) will be weighted **70%** of a proposal's total score and the information contained in the Cost Proposal will be weighted **30%** of a proposal's total score.

Proposers may be requested by OCFS to clarify the contents of their proposals. Other than to provide such information as may be requested by OCFS to clarify information contained in the proposal, no proposer will be allowed to alter its proposal or add information after the deadline for submission of proposals.

6.2 Submission Review

OCFS will examine all proposals that are received in a proper and timely manner to determine if they meet the proposal submission requirements, as described in **Section 5.0 Proposal Requirements**, and include the proper documentation. Proposals that are materially deficient in meeting the submission requirements or have omitted material documents, in the sole opinion of OCFS, may be rejected.

6.3 Technical Evaluation

The evaluation process will be conducted in a comprehensive and impartial manner. A technical evaluation committee comprised of program staff of OCFS, and other evaluators as deemed appropriate by OCFS, will review and evaluate all proposals.

All proposals will undergo a preliminary technical evaluation to verify Minimum Qualifications to Propose (Section 3.0).

The Technical Proposals will be scored based on a maximum technical score of **70 points**.

The technical evaluation committee members will independently score each Technical Proposal that meets the submission requirements of this RFP. The individual committee member scores will be averaged to calculate the Technical Score for each responsive proposer.

6.4 Cost Evaluation

The Cost Evaluation Committee will examine the Cost Proposal documents. The Cost Proposals will be opened and reviewed for responsiveness to cost requirements. If a cost proposal is found to be non-responsive, that proposal may not receive a cost score and may be eliminated from consideration.

- The lowest total cost for Deliverables 1 and 2 combined will be awarded eighteen (18) points of the thirty (30) total cost points.
- The lowest cost for Deliverable 3 will be awarded the remaining twelve

(12) points of the thirty (30) total cost points.

Each proposal that meets the submission requirements, passes the Preliminary Evaluation, and meets the cost proposal requirements will receive a cost score. The Cost Proposals will be scored based on a maximum cost score of **30 points**. The maximum cost score will be allocated to the proposal with the lowest all-inclusive not-to-exceed maximum price. All other responsive proposals will receive a proportionate score based on the relation of their Cost Proposal to the proposals offered at the lowest final cost, using this formula:

Cost points awarded = Potential points x (Lowest Cost Proposal / Cost of Proposal Being Evaluated).

6.5 Preliminary Composite Score

A preliminary composite score will be calculated by OCFS's RFP Unit by adding the preliminary Technical Proposal points and the Cost Proposal points. Finalists will be determined based on preliminary composite scores.

6.6 Interviews

Not applicable.

6.7 Reference Checks (Amended 3/27/2019)

The offerer will provide contact information for corporate and/or government customers in accordance with sections 3.1 and 5.4.2 of this RFP. At the discretion of the Evaluation Committee, references may be checked at any point during the evaluation process.

Please note: Proposers may provide contact information for OCFS staff and list them as a reference in their proposal. However, please be advised that OCFS staff cannot be a reference if they are involved with the evaluation or award process for this specific procurement due to conflict of interest and procurement integrity requirements. If applicants provide an OCFS employee as a reference, they should provide a backup reference in the event the OCFS staff reference provided is involved with the evaluation and award process for this procurement.

6.8 Final Composite Score

A Final Composite Score will be calculated, by the OCFS RFP Unit, by adding the Final Technical Proposal points, reflecting any adjustments that may result from the Cost Proposal points. In the event of a tie between two or more proposals, the proposal with the lowest cost will be considered the winning bid. If the proposals are still tied, RFP Section 5.4.2 Proposal Section 3, Deliverable 2 will then be used to break the tie.

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

A. 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 from OCFS. These procedures shall apply to all contract awards made by OCFS.

B. 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 offerer, indicating that OCFS has accepted the offerer's bid or offer.
3. "Debriefing" is the practice whereby, upon request of a bidder, OCFS reviews with such bidder the reasons its bid was not selected for an award. OCFS views debriefing as a learning process so that the bidder will be better prepared to participate in future procurements.
4. "Formal Protest" shall mean a written challenge to an OCFS contract award.
5. "Procurement" shall mean any method used to solicit or establish a contract (e.g., 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 financial management of OCFS or his or her designee.
8. "Decision after appeal" shall mean the decision on the appeal of a formal protest by the executive deputy commissioner of OCFS or his or her designee.

C. Debriefing Request

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

1. OCFS will provide notice in writing or electronically to all unsuccessful offerers that the offerer will not receive a funded award under the RFP. An unsuccessful offerer wanting a debriefing must request a debriefing in writing, within fifteen calendar days of receipt of the notice from OCFS that the offerer's proposal did not result in an award.

2. OCFS, upon receipt of a timely written request from the unsuccessful offerer, 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 offerer 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 offerer 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 offerer'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 offerer concerning potential ways that their future proposals, bids or offers could be more responsive.

D. Formal Protest and Appeal Procedure

Any interested party 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.

A. Submission of Bid or Award Protests

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 offerer who received the contract award has been approved by the NYS Office of the State Comptroller (OSC).

In addition, where a debriefing was requested, a bidder may file a protest within five business days from the debriefing (in addition to the original 10-day window from notice of award).

B. Review and Formal Protest Determination

1. Formal protests must be filed with the OCFS deputy commissioner for financial management. Any protests filed with the OCFS program division responsible for the procurement will be forwarded to the deputy commissioner for financial management. Copies of all formal protests will be provided by the deputy commissioner for financial management to the OCFS Division of Legal Affairs and other necessary parties within OCFS, as determined by the deputy commissioner for financial management.

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 financial management or the deputy 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 bidders, (c) the results of any consultation with the OCFS Division of Legal Affairs, and (d) a draft response to the formal protest.
4. The OCFS deputy commissioner for financial management or his or her 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 executive deputy 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 executive deputy 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 executive deputy commissioner or his or her 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. Unless a determination is made to suspend, modify or cancel the protested procurement action, or withdraw the recommendation of contract award, OCFS will continue procurement and contract award activity prior to the formal protest determination. The receipt of a formal protest will not otherwise stop 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.
- 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.

E. Section 6: 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 may 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's 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 NYS Office of the State Comptroller, 110 State Street, 11th Floor, Albany, NY 12236.

7.0 MANDATORY CONTRACTING REQUIREMENTS

7.1 Contract Readiness

It is expected that all offerers awarded a contract will negotiate with New York State in good faith and cooperatively work with OCFS to move from an award to an approved contract prior to the anticipated contract start date that is noted in sections 1.2 and 2.3 of this RFP. It is expected that this process will be expedited and awardees will need to be available and prepared to respond in required timeframes. OCFS may revoke an award made under this RFP, if it determines it is in the best interest of New York State, if awardees do not meet the timeframes needed for contract development and/or signature to meet the anticipated contract start date.

Prior to submitting a bid, an offerer is responsible for various verifications which validate its capacity and organizational authority to receive public funding and operate a business in New York State. All suppliers of goods and services to New York State must be registered in the New York Statewide Financial System (SFS) Central Vendor Registry file and provide their identification number at the time of contracting. For additional information on the vendor file, contact:

<http://osc.state.ny.us/vendors/epayments.htm>.

7.2 Standard Contract Language

The terms and conditions can be viewed [online](#) by clicking on this link and are hereby incorporated into this RFP. By applying to this RFP offerers agree that they have reviewed and understand the contract terms and conditions. Contracts awarded under this RFP 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). Upon contract award and completion of negotiations, OCFS will send successful awardees the complete contract for development and signature prior to submitting it to the OAG and to OSC for approval. 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.

7.3 Contract Management System (CMS)

OCFS has developed a comprehensive, web-based Contract Management System (CMS) providing technology that automates the contract development, claiming, and program reporting process. Vendors awarded contracts under this procurement may develop and electronically sign contracts through CMS. The opportunity to submit claims and program reports online is also available to CMS users. For online contract

development and claims processing all vendors are required to include form OCFS-4821, [Contract Management System \(CMS\) Authorization Form](#). In addition to the authorization form, a current organization chart that indicates where the organization head or the chief administrative officer and the contract developers, contract signatories and claim signatories appear in relation to the board of directors and the organization as a whole must be on file with OCFS, and must be included with the proposal.

A description of CMS, including benefits to vendors, follows:

CMS Standardizes the contract development process, automating labor-intensive tasks and providing system edits that reduce common errors. Interactive budget and contract documents streamline the development process. Intuitive screens provide a user-friendly environment. Online claiming functionality allows for expedited payment of claims through the use of system edits, elimination of mailing time, and consolidation of all supporting documentation in to one easy-to-access location. CMS features will permit vendors to do the following online:

- Develop, manage and electronically sign a contract online.
- Receive alerts and notifications regarding the status of contract approval.
- Permit correspondence between the vendor and OCFS.
- Upload and download contract documents into CMS.
- Process online budget modifications.
- Process online claims including both advances and expenditures.
- Upload supporting documentation for budget modifications and claims.
- Submit program reports online.
- Check the status of contracts and payments.

CMS has no hardware requirements. Minimum computer requirements for participating are simply Internet access, Explorer 6.0 or above and Acrobat Reader 7.0 – 11.0 (CMS is not compatible with Acrobat Rader DC). Acrobat Reader can be obtained free of charge at:
<http://get.adobe.com/reader>

For Macintosh users, Safari 3.1 or higher is recommended and can be obtained free of charge at:
<http://www.apple.com/support/mac-apps/safari/>

7.4 Workers Compensation Insurance and Disability Benefits Coverage

Sections 57 and 220 of the Workers' Compensation Law (WCL) and section 142 of the State Finance Law require that businesses contracting with New York State have and maintain and provide evidence of appropriate workers' compensation and disability benefits insurance coverage. If an award is made from this RFP, updated proof of coverage

must be provided during contract development. Failure to submit the proof will delay the contract development process, and may result in the award being rescinded. Municipalities are not required to show proof of coverage.

Please note: The ACCORD form is not acceptable proof of Workers' Compensation or Disability Insurance coverage.

A. 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, or contract renewal, submit appropriate proof of coverage to the state contracting entity issuing the contract. To prove the awardee has appropriate workers' compensation insurance coverage, submit ONE of the following four forms:

<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 Fund; or
- **Form SI-12** - *Certificate of Workers' Compensation Self-Insurance*; or **Form GSI-105.2** *Certificate of Participation in Workers' Compensation Group Self-Insurance*; or
- **CE-200** - *Certificate of Attestation of Exemption* from NYS Workers' Compensation and/or Disability Benefits Coverage.

B. 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, or contract renewal, submit appropriate proof of coverage to the state contracting entity issuing the contract. To prove the awardee has appropriate disability benefits insurance coverage, submit ONE of these three forms:

<http://www.wcb.ny.gov/content/main/forms/AllForms.jsp>

- **Form DB-120.1** - *Certificate of Disability Benefits Insurance*; or
- **Form DB-155** - *Certificate of Disability Benefits Self-Insurance*; or
- **CE-200** - *Certificate of Attestation of Exemption* from New York State Workers' Compensation and/or disability benefits coverage.

7.5 Confidentiality and Awardee, Contractor, Employee and Volunteer Criminal History Background Checks

- 7.5.1 **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 Attachment A-1, **Section 7 Confidentiality and Protection of Human Subjects**, located at the link to a standard contract listed in section 7.2 above.

7.5.2 Criminal History Background Checks - Any awardee, or contractor, employee or volunteer of the awardee, who will have the potential for regular and substantial contact with youth receiving services must be subject to background screening and be cleared to hire before the start date of the contract and before such persons are permitted any unrestricted contact with youth. 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 State Central Register (SCR) List; and a criminal background check vendor that will conduct both a federal check and a check of all 50 states. Additional information regarding all three (3) services will be 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.

7.6 Minority- and Women-Owned Business Enterprises (MWBE) – Equal Employment Opportunity (EEO) - Requirements and 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](#).

7.6.1 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.

7.6.2 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 RFP, the respondent agrees that OCFS may withhold payment pursuant to any Contract awarded as a result of this RFP 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 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.

7.6.3 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 RFP, 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 the OCFS a written remedy in response to the notice of deficiency to mwbeinfo@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.

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; or
- 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.

7.6.4 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 a Minority and Women-owned Business Enterprise and Equal Employment Opportunity Policy Statement, as referenced in **Section 5.6 Submission of Proposals**, 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, in such format as shall be required by OCFS on a quarterly basis during the term of the Contract.

Pursuant to Executive Order #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.

7.7 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](#).

For additional information relating to the use of certified SDVOBs in contract performance, and participation by SDVOBs with respect to state contracts through Set Asides, please refer to the following:

- [Attachment - Use of Service-Disabled Veteran-Owned Business Enterprises in Contract Performance](#)
- [Participation by Service-Disabled Veterans with Respect to State Contracts Through Set Asides](#)
- <http://ogs.ny.gov/Core/SDVOBA.asp>

7.8 Omnibus Procurement Act

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

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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 of New York; and has
2. Documented their efforts to encourage the participation of New York state business enterprises as suppliers and subcontractors by showing that they have:
 - Solicited bids, in a timely and adequate manner, from ESD business enterprises, including certified minority/women-owned businesses; or
 - Contacted ESD to obtain listings of New York State business enterprises and MWBEs; or
 - Placed notices for subcontractors and suppliers in newspapers, journals or other trade publications distributed in New York State; or
 - Participated in bidder outreach conferences; and
 - Provided a statement indicating the method by which they determined that New York State business enterprises are not available to participate on the contract as subcontractors or suppliers, *if the contractor has determined such*; and
 - Provided a statement verifying no intention of using subcontractors, *if the contractor has no such intention*.
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 by listing any such positions with the Community Services Division of the New York State Department of Labor, providing for such notification in such manner as is 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. Bidders 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 bidders 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 to obtain the recognition and accession to such assignment or transfer by any applicable foreign government.

6. Bidders are hereby notified that state agencies and authorities are prohibited from entering into contracts with businesses whose principle place of business is located in a “discriminatory jurisdiction.” Discriminatory jurisdiction is defined as a state or political subdivision which 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 nongovernmental entity influenced by the same. A list of discriminatory jurisdictions is maintained by the commissioner of the New York State Empire State Development Corporation.

7.9 Anti-Kickback Act

The contractor understands that it must comply with federal Executive Order 11246, the Copeland “Anti-Kickback Act” (18 USC 874), section 508 of the federal 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 12549 and 7 CFR Part 3017).

7.10 Contractor Responsibility

In the event the selected offerer’s proposal includes services provided by an entity other than the offerer, it shall be mandatory for the selected offerer to assume full responsibility for the delivery for such items offered in the proposal. Should the selected offerer seek external financing, OCFS reserves the right to approve the assignment of the contract for financing purposes. In any event, OCFS will contract only with an offerer, not the offerer’s financing institution or subcontractors. OCFS shall consider the selected offerer to be the sole responsible contractor with regard to all provisions of the contract resulting from this RFP. Should an offerer wish to subcontract any of its responsibilities under any contract resulting from this solicitation, OCFS requires its contractors to obtain approval from OCFS prior to subcontracting.

7.11 Multi-Agency Use

The contract entered into pursuant to an award resulting from this RFP 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.

7.12 Public Officers Law

All offerers 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 offerer 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

http://www.tenant.net/Other_Laws/Pubofc/puboftoc.html.

7.13 Office of Information Technology Services

Prior to award selection, this RFP and all responses thereto may be subject to review by the New York State Office of Information Technology Services.

7.14 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 New York State Comptroller, or other approving agency, from approving a contract awarded to an offerer 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.

The above-noted ST-220-TD and ST-220-CA forms and additional information regarding NYS 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/>

7.15 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. This form should include the projected employees and number of hours they will work. Instructions for filling out this form can be found [here](#). A description of employment categories can be found [here](#).

- **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, New York State Consultant Services Contractor's Planned Employment](#) 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, New York State Consultant Services Contractor's Annual Employment Report](#). The form must be submitted by April 30th of each year to the following offices:

New York State Office of Children and Family Services
Bureau of Contract Management
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
Alfred E. Smith Office Building

Counsel's Office, 8th Floor
80 South Swan Street
Albany, New York 12239

7.16 Application Development or Programming

Any web-based intranet and internet information and applications development, or programming delivered pursuant this procurement must comply with New York State Enterprise IT Policy NYS-P08-005, Accessibility Web-Based Information and Applications, and New York State Enterprise IT Standard NYS-S08-005, Accessibility of Web-Based Information Applications, as such policy or standard may be amended, modified or superseded, which requires that state agency web-based intranet and internet information and applications are accessible to person with disabilities. Web content must conform to New York State Enterprise IT Standards NYS-S08-005, as determined by quality assurance testing. Such quality assurance testing will be conducted by OCFS and the results of such testing must be satisfactory to OCFS before web content will be considered a qualified deliverable under the contract or procurement.

7.17 Federal Funds

OCFS will be using federal dollars to fund all or part of this project. The federal funding requirements will be included as Appendix A3 of any contract that results from this RFP. A copy of Appendix A3, with a completed and signed certification must be returned with the bidder's proposal (See **Section 5.3.2 Proposal Content.**)

7.18 Summary of Forms Required After Award and Prior to Contracting

1. Proof of Workers Compensation Insurance (See Section 7.4.A for more information)
2. Proof of Disability Insurance (See Section 7.4.B for more information)
3. [State Consultant Services – Contractors Planned Employment \(AC-3271-S\)](#) (See Section 7.15 for more information)
4. [ST-220-TD](#) (NYS Tax Department Form) Contractor Certification (**if applicable**) (See Section 7.14 for more information)
5. [ST-220-CA](#) (NYS Tax Department Form) Contractor Certification to Covered Agency (**if applicable**) (See Section 7.14 for more information)
6. [Contractor Employee and Volunteer Background Certification \(OCFS-4716\)](#) (**if applicable**) (See Section 7.5 for more information)
7. [Confidentiality Non-Disclosure Agreement \(OCFS-4715\)](#) (**if applicable**) (See Section 7.5 for more information)

8. [Contract Management System \(CMS\) User Authorization Form \(OCFS-4821\)](#) (See Section 7.3 for more information)

7.19 Summary of Forms Required During Contract Term

1. [MWBE Quarterly Report Form \(OCFS-4441\)](#) (See [Appendix MWBE](#) for more information)
2. [State Consultant Services – Contractors Annual Employment Record \(AC-3272-S\)](#) (See Section 7.15 for more information)

7.20 Appendix A - Standard Clauses for NYS Contracts

The Proposer 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 RFP and will be incorporated, without change or amendment, into the contract entered into between OCFS and the selected Proposer. By submitting a response to the RFP, 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/bcm/Non-Grant-Contract-Template.pdf>.

7.21 Executive Order Number 38

Executive Order Number 38 sets Limits on State-Funded Administrative Costs & Executive Compensation. Contracts, payment requests and reporting must comply with the regulations promulgated pursuant to this Executive Order. The Order can be found at the following website address: <http://executiveorder38.ny.gov/>

7.22 Executive Order Number 175 (If Applicable)

In accordance with the requirements of Executive Order No. 175, Contractor will be expected to adhere to net neutrality principles in the provision of internet services under any Contract entered into as a result of this RFP, regardless of delivery method unless the director of contracts, or his/her designee as noted in **Section 1.1 Procurement Contract**, determines that adherence to net neutrality principles for a particular purpose is not in the best interests of the State. Nothing in this provision supersedes any obligation or authorization a provider of broadband Internet access service may have to address the needs of emergency communications or law enforcement, public safety, or national security authorities, consistent with or as permitted by applicable law, or limits the provider's ability to do so. As used herein, "net neutrality" means that Contractor will not block, throttle, or prioritize internet content or applications or require that end users pay different or higher rates to access specific types of content or application. For the purposes of this contract, the prohibition against blocking or throttling of internet content or applications does not apply to reasonable network management practices.

7.23 Executive Order Number 177

Executive Order 177, signed on February 3, 2018, by Governor Andrew M. Cuomo 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.

7.24 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>

Attachments

Please see the following attachments to this RFP, which are available on the OCFS website (<http://ocfs.ny.gov/main/bcm/rfp.asp>) and the NYS Contract Reporter website at (<https://www.nyscr.ny.gov/login.cfm>)

Attachment 1 – Proposer’s Certified Statements *

Attachment 2 – Cost Proposal *

Attachment 3 – OCFS BTD Copyright Policy (also available [here](#))

* Attachments noted with an asterisk are required to be completed and included in your proposal submission.