

Title: Request for Qualifications (RFQ) # 1144
Contracted Hearing Officers

Agency: Children & Family Services, NYS Office of
Bureau of Contract Management

Contract Number: TBD

Contract Term: 3/1/2024 – 2/28/2029

Date of Issue: 10/3/2023

Amended: 10/4/2023 and 10/27/2023 (amended language is identified in red)

Due Date/Time: ~~10/31/2023~~ 11/7/2023 by 4:00 PM Eastern Time

Locations: Albany, Buffalo, Nassau, New York City, Rensselaer, Rochester,
Suffolk, Syracuse, New Windsor & Westchester

Counties: Statewide

Background (Amended 10/4/2023)

The New York State Office of Children & Family Services (OCFS) announces a Request for Qualifications (RFQ) for qualified entities to administer Hearing Officer services to the Bureau of Special Hearings (BSH) under contract.

The BSH, under OCFS, provides the forum for citizens to challenge a wide variety of decisions made by local and state social services officials. Hearings are held in a variety of areas including, but not limited to, foster care removals, enforcement of day care regulations and laws, enforcement of laws and regulations relating to family homes for adults, adoption applications, reimbursement of local social services districts for foster care expenditures, and issues relating to decisions made by the Commission for the Blind and Visually Handicapped. In addition, a significant portion of past and current hearings volume involves hearings arising out of the operations of the State Central Register of Child Abuse and Maltreatment (SCR). Specifically, these hearings involve two aspects: hearing requests to amend and seal or expunge “indicated” reports of child abuse and maltreatment [Social Services Law § 422(8)], and hearings involving the right of subjects of “indicated” reports seeking employment in the childcare field to have a hearing before a prospective employer is provided information as a result of a clearance request (Social Services Law § 424-a). Prior to a hearing, a subject of a report has the right to an administrative review, conducted by the SCR, which is an assessment of case documentation to decide whether substantial evidence exists to support the investigator’s determination.

Due to statutory and regulatory requirements pursuant to SSL §§ 422(8) and 424-a, many of the hearing requests awaiting scheduling in BSH are SCR hearings. The number of current referrals to the SCR continues to grow, resulting in the need to retain Contract Hearing Officers to help process this caseload.

Please Note: All services covered under this procurement are expected to be delivered in-person (unless stated otherwise). OCFS reserves the right to allow for remote services, at its sole discretion, when it is determined to be in the best interest of the State.

Please see the **Eligibility Criteria** section for additional information regarding who may apply. This advertisement is public notice that OCFS is seeking to contract with eligible individuals to conduct special hearings. **Staffing agencies are not eligible to apply. All other entities are eligible to apply, but each business is limited to naming and providing supporting documentation for one individual who agrees to provide the requested services for the entire 5-year contract term. Individuals are encouraged to apply directly.** Please see the **Scope of Work** section for additional information regarding the specific work to be performed.

The purpose of this RFQ is to invite any eligible and interested individuals who believe they can satisfy this program's needs to inform OCFS by a Letter of Interest (LOI). To be considered responsive, your LOI should be received no later than the deadline specified on the first page of this announcement. OCFS intends to contract with all qualified bidders based on the criteria outlined in this announcement. Please see the **How to Submit** section for additional information and submission requirements.

Scope of Work

Contract Hearing Officers will be required to provide the following services:

Amendment to Child Abuse Reports - Hearings held pursuant to Social Services Law § 422(8) in which indicated subjects of reports of child abuse and maltreatment seek to overturn determinations of local social services district staff and/or state personnel (in the case of abuse in an institutional setting) to "indicate" reports. "Indicate" means a report made to the SCR if an investigation determines that some credible evidence of the alleged abuse or maltreatment exists (SSL Section 412(12)).

Child Care Screening - Hearings held pursuant to § 424-a of the Social Services Law in which applicants for employment, licensure or approval in the childcare field seek to overturn determinations to "indicate" child abuse and maltreatment reports.

At the SSL Section 422 and 424-a hearings, the Investigating Agency must prove the alleged abuse or maltreatment by a "fair preponderance of evidence" which is defined by applicable regulations as "evidence which outweighs other evidence which is offered to oppose it. (18NYCRR 434.10(i)).

The Hearing Officers will perform all adjudicatory duties associated with administrative hearings provided by state laws and regulations. Upon completion of the adjudicatory process, the Hearing Officers will submit timely written recommendations (within 30 days of the completion of a hearing) in conformance with governing state laws and regulations. Specifically, the Hearing Officers will perform the following activities and tasks:

- Review the hearing files to determine probable issues, regulations, and sections of law that may apply;
- In conducting the administrative hearings for the parties involved, the Hearing Officers will elicit and evaluate testimony, maintain a legal record of the proceeding, and rule on legal motions made by the parties;
- Clarify charges and legal authority when requested to do so;
- Rule on admissibility of testimony and exhibits;
- Maintain control and order during the hearing;
- Conduct special hearings via video conference as needed;
- Rule on adjournments for continuation at a later date requested by a party or necessitated by the length of the hearing beyond a designated amount of time, and schedule the continuation of the hearing for a date convenient for all parties;
- Prepare a recommendation (draft hearing decision) based on the evidence presented in the case if the parties do not negotiate a settlement that terminates the hearing. The recommendation will include a jurisdictional statement, findings of fact, issues presented, conclusions of law, and discussion of applicable law applied to the facts, and a recommended decision;
- In drafting the recommendation, the Hearing Officers may have to research questions of law, and must take into consideration OCFS rules and regulations and apposite sections of law, in addition to applicable court decisions which bear on the case. The recommendation must be in accord with present interpretations of the law, OCFS rules and regulations, and court decisions that may be appropriate.
- Must use their own computer to type their written decisions.
- Will act as an independent contractor to the OCFS.
- Must group all services for a case into one claim at the end of a case. The end could be a decision, transfer of a case, no decision, etc.
- Must submit invoices as soon as possible after the completion of a recommended decision written and submitted and/or at the submission of a completed hearing file. Recommended written decisions should be completed within 30 days of a hearing. Failure to do so may result in the denial of the claim unless there is a compelling reason as to why it was not submitted (i.e., anticipated a future hearing that was not required).

If the need arises, the Contract Hearing Officers may be requested to perform services to an alternate site location they did not bid on, due to OCFS need and lack of adequate coverage. This will only be done when there are no other available Hearing Officers for that location and there is a need to complete hearings. Contract Hearing Officers may decline this request. If the need arises, at the discretion of OCFS, Contract Hearing Officers may be requested to perform services via video conferences.

Contract Hearing Officers who do not demonstrate strong written and oral communication skills and/or judicial temperament and/or fail to submit recommended hearing decisions in a timely fashion (within 30 days of the completion of a hearing) may be eliminated from consideration for additional assignments or have their contract terminated. Each Contract Hearing Officer will be assigned cases at the sole discretion of the Director of BSH.

The required services will be utilized on an as-needed basis. There is no set number of hearings or guaranteed number of hours that will be assigned to Hearing Officers awarded contracts under this procurement. The quantity of work to be performed under these contracts is contingent upon public need, consumer choice, contractor performance, and OCFS discretion.

Services proposed by this RFQ will occur at the site locations listed below. When the need arises, Contract Hearing Officers may be requested to provide services to locations in close proximity to any awarded site location(s) listed below or may be asked to provide service to a location further away via remote video conference. Please note that responders are recommended to be in close proximity to the site location selected to provide service, as remote video conferencing is not typically the manner in which these services are provided and is used only when the need arises.

- **New York City (five boroughs), Nassau and Suffolk (responders for all three site locations will report to same office)** - Adam Clayton Powell Building (the Harlem State Office Building), 163 West 125th Street, 18th Floor, New York, NY 10027
- **Albany and Rensselaer (responders for both site locations will report to same office)** - 52 Washington Street, North Building, Room 225, Rensselaer, NY 12144
- **Buffalo** - 295 Main Street, Suite 545, Buffalo, NY 14203
- **Syracuse** - 333 East Washington Street, 1st Floor, Syracuse, NY 13202
- **Rochester** - One Monroe Square, 259 Monroe Avenue, Rochester, NY 14607
- **Westchester and New Windsor (responders for both site locations will report to same office)** - 103 Executive Drive, 2nd Floor, New Windsor, NY 12553

Eligibility Criteria (Amended 10/4/2023)

Staffing agencies are not eligible to apply. All other entities are eligible to apply, but each business is limited to naming and providing supporting documentation for one individual who agrees to provide the requested services for the entire 5-year contract term. Individuals are encouraged to apply directly.

Interested individuals **or entities** who meet the following criteria are eligible to respond:

- Agree to provide the services requested by this RFQ in the **Scope of Work** section in one or more of the required primary site locations:
 - Albany
 - Buffalo
 - New York City (five boroughs)
 - Nassau
 - Suffolk
 - Rensselaer
 - Rochester
 - Syracuse
 - New Windsor
 - Westchester

- Be admitted to the NYS Bar Association and be a member in good standing.
- Have a minimum of at least five years' experience in two or more of the following areas:
 - Trials and/or Litigation
 - Child Welfare Law
 - Family Court Practice
 - Administrative Hearings
- Be eligible to do business with New York State.

Funding Details (Amended 10/27/2023)

Funding for this project is contingent upon the availability of funds in the state and/or federal budgets and the number of interested and eligible parties that respond to this solicitation.

The required services will be utilized on an as-needed basis. There is no guarantee of the number of hearings that will be assigned to Hearing Officers awarded contracts under this procurement. Contract values for awards resulting from this Request for Qualifications will be largely based on the anticipated needs of OCFS in the various site locations, past contractor performance (for any incumbent providers), and may be subject to change as OCFS needs change.

The following are the essential terms that will be included in any contract we enter into with Hearing Officers:

- Each Contract Hearing Officer must participate in an orientation that includes:
 - At least one day of classroom-style orientation and instruction, at a rate of \$250/day.
 - One day of observation of a hearing held by one of our Hearing Officers, at a rate of \$250/day.
 - Note: Contract Hearing Officers who have already participated in and been paid for the training session and observation during a prior contract period, will not be required to do so during this contract period and will not be reimbursed for such in the current contract period.
- ~~\$300~~ **\$350** per day for each day of hearings held by the Contract Hearing Officer.
- ~~\$250~~ **\$300** for each recommended decision written and submitted in a timely fashion (within 30 days of the completion of a hearing) to the Director and Supervising Administrative Law Judge assigned to review the hearing record and recommended decision.
 - Note: the fee paid for written decisions for default, withdrawals, abandonments, and no-evidence cases will be \$50.
- Travel expenses will be reimbursed and are subject to New York State Office of State Comptroller (OSC) Regulations and Guidelines, link shown below:
<https://osc.state.ny.us/agencies/travel/travel.htm>

Caseload Assignment Allocation

Caseloads will be assigned in the following manner:

1. The Contract Hearing Officer (CHO) will provide information on their availability to OCFS for upcoming two-month intervals. When CHO's are needed to cover caseload overflow, the OCFS Supervising Administrative Law Judges (ALJ) first consider CHO's whose caseloads are lowest and try to assign accordingly within their availability. If the cases cannot be assigned in that manner, then cases are assigned to other CHO's who are available to take on the work.
2. When OCFS receives past due referrals, Supervising ALJ's will ask for any immediately available dates from the CHO to fit in cases from the referral list after the full time ALJ dates have been used up, or full time ALJs have no availability on the calendar to meet the new referral deadlines for scheduling. OCFS Supervising ALJ's first consider CHO's whose caseloads are lowest and try to assign accordingly within their availability. If the cases cannot be assigned in that manner, then cases are assigned to other CHO's who are available to take on the work.
3. On re-assigned cases, based on unforeseen circumstances (such as the need to schedule a foster care removal or other category of case, or ALJ unavailability due to illness, among others), OCFS will check CHO availability. Priority will be given to the CHO's who have a low number of scheduled cases.

Term of Contract

Contract(s) awarded in response to this solicitation will be for **five years**. The anticipated start date is **3/1/2024**, and the anticipated end date is **2/28/2029**. Funding is anticipated to be available for the first year of the contract. The award of a contract does not guarantee funding will be available for subsequent years. Contractors may not begin providing services before the contract start date; OCFS has no obligation to pay for services rendered before the New York State Office of the State Comptroller and the Office of the Attorney General approve the contract.

How to Respond

To be considered responsive, interested parties should complete and submit all required documents in conformance with the format and content requirements as explained. A response that does not provide all the information requested may be subject to rejection. The response should contain sufficient information to assure OCFS of its accuracy. The information provided should, wherever possible, verify you meet the requirements in the **Eligibility Criteria** section of this solicitation.

Responses must be e-mailed to RFP@ocfs.ny.gov and should be received by the due date and time specified on the first page of this announcement.

Interested parties should complete and provide the following documents:

- **Attachment 1 – Letter of Interest**
- **Attachment 2 – Submission Checklist**
- **Attachment 3 – References (three references, one within the past 12 months)**
- **Verification of admission to the NYS Bar Association**
- **Resume**

Additionally, each interested party may provide the following optional documents:

- [OCFS-2647, EO 177 Certification](#)
- [OCFS-4821, CMS User Authorization](#)
- [OCFS-2634, Non-Collusive Bidding Certification \(Required by section 139d of State Finance Law\).](#)
- [OCFS-4822, Procurement Lobbying Act – Offerer Certification Form](#)

The subject line of the e-mail submission of your response should include the following information: **RFQ 1144 Contract Hearing Officers**. Additionally, please clearly identify the vendor's name in the body of the e-mail and in the file names of attached documents to ensure your submission is processed efficiently. **Early submissions are encouraged as late responses may be subject to rejection.**

Please limit your Letter of Interest to a maximum of **five** page(s), Arial 12-point font, single line spacing and one-inch margins. Please see the **Attachment 1 – Letter of Interest** provided for your reference.

OCFS will provide a confirmation e-mail that the submission has been received. OCFS will not be liable for any costs incurred by interested parties in the preparation of documents submitted in response to this solicitation. Vendors may modify, in writing, or withdraw the content of any submission at any time prior to the due date and time.

Questions

Questions should be submitted via e-mail to RFP@ocfs.ny.gov prior to the due date and time specified on the first page of this announcement. The subject line should include the following information: **RFQ 1144 Contract Hearing Officers**. Please submit your question(s) with adequate time for response. OCFS recommends allowing at least five business days. **Late questions may not be addressed.**

Under the requirement of the Procurement Lobbying Act, all communications regarding advertised projects are to be channeled only through the primary contact identified herein.

Evaluation Process

An internal review by OCFS will confirm eligibility. This solicitation is not a guarantee or promise of funding. Available funding to support this initiative will be limited to the amount(s) appropriated in the enacted budget for this purpose and will be awarded among those interested individuals who are deemed to meet the eligibility requirements,

pass the vendor responsibility review, and are determined to be suited for the program/initiative by OCFS.

OCFS may require additional information from an individual before deciding whether the interested individual is eligible and can supply the requested services. If OCFS requests additional information, it must be provided within five business days from request or as otherwise directed in the request.

Upon determination of eligibility, OCFS will notify eligible individuals of their status and the proposed award amount (if any). OCFS may also request other documents necessary to develop contracts.

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 above, and include the proper documentation. Proposals that are materially deficient in meeting the submission requirements or have omitted material documents, may be rejected.

Omissions or ambiguity in the information provided in response to any of the requirements will not be resolved in the proposer's favor. Proposals that are determined to not meet the requirements of this RFQ may be disqualified. OCFS reserves the right to disqualify any applicant whose reference check is unsatisfactory.

All individuals that are qualified, responsive, responsible, and present proposals that are determined to meet the requirements of this RFQ will be awarded.

Awards are contingent upon vendors maintaining and certifying a [Vendor Responsibility Questionnaire](#). Vendors must be found responsible and cannot be listed on the OGS prohibited vendors list.

OCFS Reserved Rights

OCFS reserves the right to withdraw, amend or postpone this solicitation, without notice, and without liability, to any applicant, or other party, and may exercise these rights at any time. In addition, OCFS reserves the right to:

- place a monetary cap on the funding amount made in each contract award;
- change any of the schedule dates stated in the solicitation;
- make an award under this solicitation in whole or in part;
- disqualify any applicant whose conduct and/or LOI fails to conform to the requirements of this solicitation;
- reject any LOI if, in the sole discretion of OCFS, it determines the applicant is not a responsible vendor;
- request all applicants who submitted LOIs to present supplemental information clarifying their proposals either in writing or by formal presentation;
- direct all organizations who submitted LOIs to prepare modifications addressing solicitation amendments;
- make funding decisions that maximize compliance with and address the outcomes

identified in this solicitation;

- fund only one portion, or selected activities, of the selected applicant's LOI and/or adopt all or part of the selected applicant's LOI based on federal and state requirements;
- eliminate any solicitation requirements unmet by all applicants, upon notice to all parties that submitted LOIs;
- waive procedural technicalities, or modify minor irregularities, in LOI received, after notification to the applicant involved;
- correct any arithmetic errors in any proposal, or make typographical corrections to LOIs, with the concurrence of the applicant;
- negotiate with the eligible applicant(s) prior to contract award;
- require that all LOIs be held valid for a minimum of 180 days from the closing date for receipt of applications, unless otherwise expressly provided for in writing;
- fund any or all of the LOIs received in response to this solicitation. However, issuance of this solicitation does not commit OCFS to fund any proposals. OCFS can reject any proposals submitted;
- use the LOI submitted in response to this solicitation as part of an approved contract. At the time of contract development, awardees may be asked to provide additional budget and program information for the final contract;
- utilize any and all ideas submitted in the LOI received where an award is ultimately made;
- make inquiries of third parties, including but not limited to applicant's references, regarding the applicant's experience or other matters deemed relevant by OCFS. By submitting an LOI in response to this solicitation, the applicant gives its consent to any inquiry made by OCFS;
- where applicable, 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 participants' confidentiality and recognize practical constraints of collecting this kind of information;
- when applicable, consider statewide distribution and regional distribution within New York City, including borough distribution methodology, in evaluating proposals; and
- reject any extraneous terms, alternate activities/work to be performed, added conditions, or exceptions stated by applicants within their LOI. This includes, but is not limited to, proposed changes to the standard terms and conditions of the resulting contract(s).

Contract Documents

Interested parties must review the contract terms and conditions of the contract template provided below.

If applying, your organization must read, understand, and accept 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 announcement and will be incorporated, without change or amendment, into the contract entered into between OCFS and the selected organization(s). By submitting a response to this announcement, your organization agrees to comply with all the provisions of Appendix A. Please review the sample non-grant contract template, which includes the Appendix A,

available at:

<https://ocfs.ny.gov/main/contracts/docs/Non-Grant-Contract-Template.pdf>.

In addition, the following documents may be required prior to contracting:

- [Vendor Responsibility Questionnaire](#) (if applicable)
- [Proof of Workers' Compensation Insurance](#) (if applicable)
- [Proof of Disability Benefits Coverage](#) (if applicable)
- [ST-220-CA Contractor Certification to Covered Agency](#) (if applicable)
- [ST-220-TD Contractor Certification](#) (if applicable, for reference only)
- [OCFS-4631, MWBE Utilization Plan Form](#) (if applicable)
- [OCFS-4629, Project Staffing Plan Form](#)
- [OCFS-3460, Equal Employment Opportunity \(EEO\) Policy Statement](#)

Diversity

OCFS is committed to identifying, addressing, and reducing disproportionality and to eliminating racial and ethnic disparities in our systems of care and custody. Authentic partnerships and joint decision-making with families and communities promote social justice and race equity to address disproportionality and disparities in the provision of services to children and families. OCFS strongly encourages qualified minority-owned, women-owned, and veteran-owned businesses to submit a letter of interest in response to this announcement.

Contact Information

Primary contact:

Director of Contracts
NYS Office of Children & Family Services
52 Washington Street
Room 202S – Procurement Unit
Rensselaer, NY 12144
RFP@ocfs.ny.gov

Submit to contact:

Director of Contracts
Office of Children & Family Services
52 Washington Street
Room 202S – Procurement Unit
Rensselaer, NY 12144
RFP@ocfs.ny.gov

Attachments

Please see the following attachments to this announcement, which are available on the New York State Contract Reporter website at <https://www.nyscr.ny.gov> or the OCFS website at <https://ocfs.ny.gov/main/contracts/funding/>.

- **Attachment 1 – Letter of Interest***
- **Attachment 2 – Submission Checklist***
- **Attachment 3 – References***

* Attachments marked with an asterisk **must** be completed and included with your response submission.