



**Office of Children
and Family Services**

ANDREW M. CUOMO
Governor

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Commissioner

**New York State
Office of Children and Family Services
Division of Child Care Services**

Non-Grant Procurement

Emergency Solicitation: Child Care Grant Management Solution

Issued: 6/8/2021
Amended: 6/9/2021

Please note: Amendments to this procurement document will be made using red text. Bold red text indicates new content that has been added. Red text with strikethrough indicates content that has been removed and is no longer applicable.

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 Procurement Unit or his/her designee(s) at OCFS, via email RFP@ocfs.ny.gov.

"Restricted period" means the period of time commencing with the earliest posting, of written notice, advertisement, or solicitation, including but not limited to a governmental entity's website, in a newspaper of general circulation, or in The New York State Contract Reporter (Contract Reporter), of an SOLICITATION 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 New York State Office of the State Comptroller (OSC), Bureau of Contracts.

During the "restricted period," as defined above, no offeror-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 offeror 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

EMERGENCY SOLICITATION: Child Care Grant Management Solution	
EVENT	DATE
Solicitation issued	June 8, 2021
Informational Meeting/Bidder's Conference (optional) See Section 1.3 for more information	June 9, 2021
Deadline for submission of written questions See Section 1.4 for more information	June 9, 2021 by 5 p.m. Eastern time
Responses to written questions posted on or about See Section 1.4 for more information	June 10, 2021

Deadline for submission of proposals	June 15, 2021 by 4:00 p.m. Eastern time
Interviews (top two offerors susceptible to award)	June 18, 2021
<i>Anticipated</i> notification of award (not earlier than)	June 21, 2021
<i>Anticipated</i> contract start date (not earlier than)	June 21, 2021

1.3 Informational Meeting/Bidder's Conference

Offerors are encouraged to attend the Bidders' Conference, which will be in the form of an interactive webinar. The webinar will provide important information to organizations intending to submit applications in response to the solicitation including a demo of a similar grant application to be used by OCFS.

One webinar will be held on the date and time specified in **Section 1.2 Calendar of Events**. Attending the webinar is encouraged as OCFS will review important proposal submission requirements. Attendance is not required. Prospective applicants may submit a proposal regardless of whether they attend the webinar. OCFS recommends webinar attendees attempt to log in to the webinar 5-10 minutes early so as to provide sufficient time to troubleshoot computer, software, or internet browser-related issues, should any occur.

- To join for both video and audio conference, access the webinar at <https://meetny.webex.com/meetny/j.php?MTID=m970535ba40bf3db51fb9cb42b61d799c> and if prompted, use the meeting password: pPP8pcQ4aD5
- To join by telephone for the audio conference only, the number to call is 1-518-549-0500; use the access code: 161 808 9222

Note: It is recommended that participants read the solicitation documents before the webinar.

A comprehensive list of questions and responses resulting from the Bidder's Conference webinar will be posted in the solicitation announcement on the OCFS website (<https://ocfs.ny.gov/main/contracts/funding/>) and the Contract Reporter website at (<https://www.nyscr.ny.gov>) on or about the date specified in **Section 1.2 Calendar of Events**.

1.4 Submission of Written Questions

All communications to report errors or omissions in the procurement process, to ask questions, or to request clarification of this solicitation should cite the particular solicitation section and paragraph number, and must be submitted via email to RFP@ocfs.ny.gov 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

(<https://ocfs.ny.gov/main/contracts/funding/>) and the NYS Contract Reporter website at (<https://www.nyscr.ny.gov/login.cfm>) on or about 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 SOLICITATION before the due date for the submission of proposals;
3. reject any or all proposals received in response to the SOLICITATION;
4. withdraw the SOLICITATION at any time at the agency's sole discretion;
5. make an award under the SOLICITATION in whole or in part;
6. disqualify any bidder whose conduct and/or proposal fails to conform to the requirements of the SOLICITATION;
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 SOLICITATION before opening of bids, with notification to all bidders, and direct all bidders to prepare modifications addressing SOLICITATION amendments, if necessary. Expenses incurred in the preparation of any proposals or modifications submitted in response to this SOLICITATION 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 SOLICITATION;
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 SOLICITATION 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) before 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 SOLICITATION. However, issuance of this SOLICITATION does not commit OCFS to fund any proposals. OCFS can reject any proposals submitted and reserves the right to withdraw or postpone this SOLICITATION 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 SOLICITATION and may exercise these rights at any time;
21. use the proposal submitted in response to this SOLICITATION 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;
23. require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an offeror's proposal and/or to determine an offeror's compliance with the requirements of the solicitation;
24. make additional awards based on the remaining proposals submitted in response to this SOLICITATION 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, regarding applicants' experience or other matters deemed relevant to the proposal by OCFS. By submitting a proposal in response to this SOLICITATION, 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 SOLICITATION, in whole or in part, at any time and to reject any and all proposals when appropriate in the best interests of the state;
30. make adjustments to the funding amount requested based on program need and based on the total dollar value of the applications submitted; and
31. reject any extraneous terms, alternate activities/work to be performed, added conditions, or exceptions stated by applicants within their proposals. This includes, but is not limited to, proposed changes to the standard terms and conditions of the resulting contract(s).

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

2.0 EXECUTIVE OVERVIEW

OCFS is in need of a technology solution to support childcare stabilization grants application, review, and payments processing to disburse funds available through the American Rescue Plan Act (ARPA) to childcare providers. Due to extremely tight deadlines to disburse over \$2B in grant funds to eligible childcare providers with approved applications, an automated application processing and payment system **must** be developed and deployed before the end of July 2021. Additional grants funded by ARPA may be added to the application at a later date as directed by OCFS. To that end, OCFS is seeking to award a contract to one vendor who can provide a solution that meets the technical requirements included in the scope of work.

2.1 Term of Contract

The anticipated start date is June 21, 2021 and the anticipated end date is September 30, 2023, with the option for two one-year extensions. Funding is currently anticipated to be available for the first year of the contract, and the award of a multiyear contract does not guarantee that funding will be available for subsequent years. Contractors may not begin to provide services before the contract start date; OCFS has no

obligation to pay for services rendered before that time. Payments cannot be made before the formal execution of a contract.

3.0 MINIMUM QUALIFICATIONS TO PROPOSE (AMENDED 6/9/2021)

3.1 Minimum Qualifications (AMENDED 6/9/2021)

Eligible Offerors must meet the following requirements to be eligible to bid.

Offerors Must:

1. Document at least three years' experience working on the platform they are using to build the application system.
2. Document experience integrating with state and/or other vendor systems using APIs.
3. Commit to begin product development within three calendar days of contract signature.
4. Have successfully developed or customized a similar public facing online application system that **includes identity and access management, and interfaces with existing systems using Application Programming Interfaces (APIs)** ~~meets the technical requirements stated in the Section 4.0 Scope of Work requirements for a state entity~~ within the last three years.
5. Provide references from two state entities that the offeror developed an **online application similar** solution ~~for~~ that was successfully implemented. One of the references must be the state that the offeror identified to meet number 4 above.

3.2 Not applicable to this procurement

4.0 SCOPE OF WORK

The following documents are provided to offerors with important information to use in understanding the technical requirements needed for the application OCFS needs to have built as well as the federal grant requirements and sample applications our federal funder has provided.

1. Exhibit A - ARPA federal grant award terms – These documents lay out the requirements that apply to this application.
2. Exhibit B – ARPA High-Level Requirements and NYS requirements.
3. Exhibit C – Federal Office of Child Care sample applications – This is for example only, OCFS requires that one application be built for NYS with multiple modality choices rather than two separate applications. In addition, development should be done knowing that additional related grant opportunities may be requested to be added to the initial Stabilization Grant application.
4. Exhibit D - OCFS Essential Worker Scholarship (EWS) application wireframes. This application includes base provider data that will be needed in the new application.
5. Exhibit E – OCFS EWS payment process

The major technical requirements for the automated application processing and payment system are outlined below. The delivery date of application components and testing must be completed to meet the mandatory July 31, 2021 go live date, which are a material term of this scope of work and agreement; time is of the essence.

1. **System components and mandatory interfaces:**

- Public-facing provider portal and online grant application forms
- Develop portal and forms based on business requirements to be provided by OCFS, to include business logic to calculate grant amounts, eligibility determination, and award decision.
- Mandatory use of NY.Gov for identity and access management for providers and state workers.
 - NY.Gov identity services are delivered through the state's identity management platform using Okta.
 - The proposed solution must implement Open ID Connect (OIDC) protocol with OAuth 2.0 using PKCE flow for public-facing provider portal.
- Mandatory Email correspondence (assured delivery) to applicants.
 - All email & SMS correspondence would be delivered using Granicus. The proposed solution would need to create custom email and SMS templates using Granicus. Credentials for Granicus will be provided, and the solution is required to track un-deliverable or bounced messages.
- Mandatory interface with OCFS Child Care Facility System (CCFS), system of record for statewide childcare provider data (except NYC):
 - A REST API would be provided securely through the state's API management gateway along with credentials.
- Mandatory interface with NYC Child Care Activities Tracking (CCAT), system of record for NYC childcare provider data:
 - A REST API would be provided securely through the state's API management gateway along with credentials.
- Internal grant management portal and grant review/approval process for state knowledge workers.
 - Develop screens for state staff to use to review and process applications, provider Tax payor Identification Numbers (TINs) and name information to be able to create a 1099 file and communicate with applicants.
- Payment processing module
 - Mandatory use of GIACT APIs: gAUTHENTICATE® and gVERIFY for identity and bank account verification. Credentials to GIACT will be provided.
 - Mandatory use of ITS-developed API for interface with OCFS Central Accounts Payable System (CAPS), which in turn interfaces with the state's

Statewide Financial System (SFS). (Note: timeframe availability of API is expected to be June 21)

2. General requirements:

- Vendor shall develop the proposed application and manage the deployed application, including all cloud based components, to comply fully with or exceed all security procedures of the State, including New York State Office of Information Technology Services'(ITS) Information Security policies and procedures located at <https://its.ny.gov/eiso/policies/security> (see **Exhibit 4** attached for contract language).
- The vendor must follow the Secure System Development Lifecycle Process (see attached Exhibit F for contract terms and conditions.)
- The application shall be compliant with all New York State and federal legal requirements or other regulations for data collected, transmitted, or stored via the application.
- Service level agreement: 99% server and application availability
- All Confidential Data shall be encrypted in transit and at rest in accordance with NYS Information Security Policy NYS P03-002 and NYS Encryption Standard NYS S14-007.
- The vendor will be expected to develop an application with the same look and feel as other NY.Gov applications. The state will provide the vendor with necessary cascading style sheets as needed.
- The proposed application should comply with Web Content Accessibility Guidelines (WCAG) to make web content more accessible to people with disabilities.
- The application and subsequent email communications must be translated into English, Spanish, Simplified Chinese and Traditional Chinese. Additional languages may be added at the direction of OCFS.
- The system must be deployed to production by the end of July 2021. OCFS will work with the vendor to determine the need for any subsequent releases.
- End-to-end testing must be completed with OCFS sign-off prior to implementation, on a schedule to be agreed on by the vendor, ITS, and OCFS.
- The State requires a minimum 2-week period for end-to-end testing
- Vendor should include timeframes for System Integration testing, Quality Assurance testing, and User Acceptance testing to provide accurate system function.

- Security Testing:
 - Vulnerability scanning must be performed prior to go live. If NYS ITS performs the scan, the schedule must allow for one week of testing, depending on the size of the application. The vendor may perform the scans and will be required to supply results to the State for analysis and acceptance.
 - Penetration testing must be performed prior to go live. If NYS ITS performs the testing, the schedule must allow at least 2 weeks, depending on resource availability and size of the application and scope of the test. The vendor may perform the scans and will be required to supply results to the State for analysis and acceptance.
 - Vulnerability and penetration testing can be performed in parallel.

- Environments will be required for Development, Testing, Training, and Production.
- Disaster recovery backups and offsite management.
- Cloud hosting and all data storage restricted to continental United States.
- All vendor system administrators located within the continental United States.
- Manage system software upgrades and updates.
- Audit logs and reporting functionality that captures, at a minimum, the following:
 - User ID;
 - Transaction date and time stamps;
 - IP address
 - Log on success / failure.
- Vulnerability scanning & management according to NYS ITS Standard NYS-S15-002.
- Upon request, the Contractor will be required to provide the State with security logs and reports (such as SOC2 Type 2, CAIQ, and ISO27001) to allow the State to make an informed decision about the Contractor's security controls and their effectiveness.
- The vendor will be expected to provide production support for a minimum of 12 months.
- 24/7 system support to state users to address system functionality issues.
- Must provide post go live support to release a minimum viable product and provide ability to add upgrades after go-live.
- Reporting – The system must provide functionality to include, but not limited to, the following data in reports: (Note: Additional data needed for reports will be defined during detailed requirements elicitation including, but not limited to data specific to each provider's operations and the children they serve.)
 - Number of grant applications received
 - Number of grants awarded
 - Amount of grants awarded
 - Number of Providers receiving grants, broken down by licensing status and Provider type
 - Zip code of the Provider
 - Race and ethnicity of the center director or family childcare owner
 - Gender of center director of family childcare owner
 - How Providers used grant funds

Applicants may subcontract components of the scope of work. For those applicants that propose subcontracting, it is preferable to identify subcontracting agencies during the application process. Applicants that plan to subcontract are expected to state in the application the specific components of the scope of work to be performed through subcontracts. Applicants should note that the lead organization (prime contractor) will have total responsibility for all contract activities, including those performed by subcontractors, and will be the primary contact for OCFS. If requested by OCFS, the contractor agrees not to enter into any subcontracts, or revisions to subcontracts, that are in excess of \$100,000 for the performance of the obligations contained herein until it has received the prior written permission of the state, which shall have the right to review and approve each and every subcontract in excess of \$100,000 before giving written

permission to the contractor to enter into the subcontract. All subcontractors must be approved by OCFS.

PROPOSAL REQUIREMENTS

4.1 General

4.1.1 Incurred Costs

Neither New York State nor OCFS shall be liable for any costs incurred by an offeror 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 offeror under the contract before the approval of an executed contract or future task order by OCFS, or if required, the New York State Office of the State Comptroller (OSC).

4.1.2 Content of Proposals

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

4.1.3 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 New York State Office of the Attorney General and OSC, as may be necessary, to obtain the approvals of those agencies for the final contract 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 New York State 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 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.

4.2 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 part of the proposal must be submitted in a separate email to RFP@ocfs.ny.gov as a pdf attachment:

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

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

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

All proposals must be submitted via email to RFP@ocfs.ny.gov. and received by the date and time indicated for Deadline for Submission of Proposals as specified in **Section 1.2** (Calendar of Events). Proposals received after the Deadline for Submission of Proposals may be rejected.

To be considered eligible, the offeror must submit a complete response to this SOLICITATION in conformance with the format and content requirements set forth herein. A proposal that does not provide all the information requested may be subject to rejection. The proposal must contain sufficient information to assure the state of its accuracy. No information beyond that specifically requested is required and offerors are requested to keep their submissions to the shortest length consistent with making a complete presentation of qualifications.

All proposals and accompanying documentation submitted in response to this SOLICITATION 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 SOLICITATION will be made part of the contract. Therefore, only an individual who is authorized to legally bind the offeror may sign the proposal.

4.3 Part I - Administrative Proposal

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

4.3.1 Not applicable to this procurement

4.3.2 Proposal Content

The following is a list of required forms and documents that may be included in the Administrative Proposal. If they are not included with the Administrative Proposal they will be required prior to contract execution. Most can be accessed electronically throughout this SOLICITATION and via the links below. Those available only in hard copy are identified and attached in this section of the SOLICITATION.

The forms in the proposal are designed to facilitate proposal evaluation and to standardize responses to this SOLICITATION. The offeror should submit them in their proposal to streamline the evaluation process.

These forms are not required with the proposal but must be provided upon/after award and before contract execution:

- 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. [Procurement Lobbying Act – Offeror Certification Form \(OCFS-4822\)](#)

F. [EO 177 Certification \(OCFS-2647\)](#) (See section 7.23 for more information.)

G. [State Consultant Services – contractors Planned Employment \(AC-3271-S\)](#) (See section 7.15 for more information.)

H. Offerors must list and clearly explain any and all exceptions and/or caveats to any item contained in this SOLICITATION 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 offeror or the proposal will be disqualified as non-conforming.

4.4 Part II - Technical Proposal (AMENDED 6/9/2021)

Each offeror'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 SOLICITATION section # of the appropriate proposal response requirement.

4.4.1 Not applicable to this procurement

4.4.2 Proposal Content (AMENDED 6/9/2021)

Proposal Section 1 - Executive Summary

Offeror must complete **Attachment 1 - Offeror's Certified Statements**.

Proposal Section 2 - Minimum Qualifications to Propose

1. Provide a listing of projects including the name, physical address email and phone number of the primary contact of the client, brief description of the project, name of the platform used (must be the platform that will be used for this project) and the month day and year of the start and end dates of the project, documenting three years of experience.
2. Using the list provided in 1. above, include the state and/or vendor system API integration(s) successfully completed for the projects.
3. On **Attachment 1**, Proposer's Certified Statements, Section Two: Minimum Qualifications, offeror must check "yes" committing to

beginning product development within three calendar days of contract signature.

4. ~~Provide references from two state entities the offeror developed a similar solution for that were successfully implemented~~ **Provide the name of the state that the offeror successfully developed or customized a similar public facing online application system that includes identity and access management, and interfaces with existing systems using Application Programming Interfaces (APIs) meets the technical requirements stated in the Section 4.0 Scope of Work. At least one must have been in within** the last three years. Describe the application and its requirements and provide the timeline for the project (start date, implementation date and end date).
5. On **Attachment 3**, submit references from two state entities that the offeror developed an **online application similar** solution ~~for within the last three years~~ that was successfully implemented. One of the references must be the state that the offeror identified to meet number 4 above. Include contact name, physical address, email, phone number and title of the primary contact of the client. Please note that it is the offerors' responsibility to make sure that the reference is available between 9AM to 5PM Eastern Time so OCFS can reach them.

Proposal Section 3 - Experience

1. This project requires an expedited timeframe to meet the go live date. Offerors must provide their proposed workplan to explain how they will meet the requirements in the Section 4 Scope of Work and submit a project timeline that includes the delivery date of application components and testing to meet the mandatory July 31, 2021 go live date, which are a material term of this scope of work and agreement; time is of the essence.
2. Submit the Key Project Team resumes (with start and end dates of employment, employer and responsibilities). Additionally, for each project team member, include the number of years' experience each of the project team members have in successfully implementing systems using the platform that will be used to develop OCFS's application.
3. This application will have high visibility and use by approximately 18,000 childcare providers as well as OCFS staff utilizing workflows to process applications. OCFS access to system support to address any system issues is critical. Explain the process the offeror will put in place to provide OCFS with 24/7 access to report system issues and the repair response times that will be in place for this project.
4. Although specific requirements for additional grants are not available at this time, describe the timeline and process the offeror will follow to be available to modify the live application to add additional provider grant opportunities at OCFS direction. Expedited timeframes will be

required to meet grant obligation and liquidation dates. Pricing for such additions will be in accordance with Section 4.5 Cost Proposal.

5. Explain how the system security and availability service level of agreement (99% of server and application availability) will be met.

4.5 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 offeror's cost proposal must include the following.

1. Child Care Grant Management Solution System Pricing

Vendors must submit a single price for the delivery of the system as defined in this solicitation on **Attachment 2**. The price is a fully inclusive price for delivery of the system and must include post implementation support to correct any defects found as well as upgrades and a minimum of 12 months maintenance.

2. Add on Service Pricing

Vendors must also propose hourly rates on **Attachment 2** for add on services for each of the titles listed. These rates are required in the event OCFS determines additional work is required to modify or add on to the delivered system for other grant opportunities related to this base system. In the event OCFS exercises this option, OCFS will negotiate with the vendor for a time estimate and quote based on these rates. OCFS also reserves the right to negotiate with the contracted vendor for a single deliverable quote for any add on services. The deliverable based quote for add on services would be a fully inclusive price for delivery of the add on statement of work and must include post implementation support to correct any defects found.

Note: A completed and signed **Attachment 2 – Cost Proposal must be submitted**. The Cost Proposal shall comply with the mandatory format and content requirements as detailed in this SOLICITATION and in **Attachment 2**. Failure to comply with the mandatory format and content requirements may result in disqualification.

3. A transmittal letter signed by an individual who is authorized to legally bind the offeror in a contract.
4. A statement that the proposal remains valid for a minimum of 180 days from the proposal due date.

Note: Any attachments can be found on the Contract Reporter and the OCFS website. Please download them from that location, complete them, and include them with your proposal.

4.6 Submission of Proposals

- A. Proposals must be signed by an individual who is authorized to legally bind the offeror to the provisions of the proposal.
- B. Not applicable to this procurement.
- C. The Administrative Proposals, Technical Proposals, and Cost Proposals must each be separately emailed to RFP@ocfs.ny.gov. Each email must identify which proposal is attached.
- D. Bidders assume all risks for timely, properly submitted delivery of proposals before the proposal due date referenced in **Section 1.2 Calendar of Events**. LATE PROPOSALS may not be accepted.
- E. Not applicable to this procurement

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.

- I. By submitting a proposal, the bidder warrants that it has carefully reviewed the needs of the state (as described in this SOLICITATION, its attachments, and other communications related to this SOLICITATION), has familiarized itself with the specifications and requirements of this SOLICITATION and warrants that it can provide such products and services as represented in the bidder's proposal. The bidder agrees to 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 SOLICITATION 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 SOLICITATION.
- J. All proposals and accompanying documentation become the property of the state and will not be returned.
- K. Receipt of late proposals, as a general rule, 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 SOLICITATION.

5.0 EVALUATION AND SELECTION METHODOLOGY

Applications will be reviewed and scored by trained reviewers using a structured, preapproved evaluation instrument. The final score will be based on the average of the reviewer scores. Award recommendations will be based on the highest scoring applications. The top two offerors with the highest total scores, will be interviewed

and provide a demo of the platform the offeror will use to develop the application.

If there is a tie between two or more proposals, the applicant who scores higher in Minimum Qualifications Section 3.1.4 will be awarded. If the proposals remain tied, the applicant with the highest interview score will be awarded.

Applicants may submit only one proposal in response to this SOLICITATION and may receive a maximum of one award. If the number of allowable proposals is exceeded, then only the first proposal received will be scored. If multiple proposals from the same offeror are delivered at the same time, OCFS will score the proposal OCFS opens first and the second will be eliminated from consideration.

5.1 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 offerors” 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 SOLICITATION requirements (other than the Cost Proposal) will be assigned up to 80 points of a proposal’s total score and the information contained in the Cost Proposal will be assigned up to 20 points (includes up to four bonus points for optional letter of credit, see Section 5.4) of a proposal’s total score. Thus, the total maximum points are 100.

Offerors 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 offeror will be allowed to alter its proposal or add information after the deadline for submission of proposals.

5.2 Submission Review

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

5.3 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.

The Technical Evaluation Committee members will independently score each Technical Proposal that meets the submission requirements of this SOLICITATION. The individual committee member scores will be averaged to calculate the Technical Score for each responsive offeror.

5.4 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.

Each proposal that meets the submission requirements, passes the Preliminary Evaluation, and meets the cost proposal requirements will receive a cost score.

Child Care Grants Management Solution Pricing

The cost proposed for this deliverable on **Attachment 2** is worth 15 points.

The cost proposed for this deliverable will be calculated in the following manner.

Lowest cost proposal / Proposal being evaluated X 15 = Child Care Grant Management System Score

Add on Service Pricing The scoring for the add on services will be worth **five (5)** points in the following manner:

All title rates will be multiplied by the applicable estimated hours and totaled to determine the total projected Add on Service Pricing. The total projected Add on Service Pricing will be scored independently using the following formula:

Lowest cost proposal / Proposal being evaluated X 5 = Add on Service Score

Total Cost Score

The total cost score will be calculated as follows:

Child Care Grant Management System Pricing score + Add on Service Pricing score = Total Cost score (maximum 20 points)

5.5 Preliminary Composite Score

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

5.6 Interviews/System Demo

Interviews/system demo of the top two offerors with the highest preliminary composite scores, will be held via videoconference. Finalists who cannot be contacted via telephone to arrange the interview after three attempts by OCFS will be disqualified.

The purpose of an interview/system demo is to allow the evaluators to validate the offeror's experience and qualifications as presented in the proposal, require the offeror to provide a demo of the platform the offeror will use to develop the application and allow the evaluators to ask questions after the demo.

Each finalist will be notified of the date and time of their interview/system demo to be held not earlier than the interview date designated in Section 1.2 (Calendar of Events). The interview/system demo should confirm the offeror's ability to provide the required services. The offeror, including any key personnel, should be present and participate in the interview/system demo. No new material will be permitted to be introduced during the interview other than the system demo.

5.7 Reference Checks

The offeror will submit references using **Attachment 3 - References**. At the discretion of the Evaluation Committee, references will be checked for two proposals with the highest preliminary composite score only.

5.8 Final Composite Score

A Final Composite Score will be calculated by reflecting any adjustments that may result from interviews/system demo and/or reference checks to the Preliminary Composite Score.

Award recommendations will be based on the highest scoring proposals and ranked by Final Composite Score.

In the event a funding decision encounters a tie between two or more proposals, the proposer with the lowest cost will be chosen first. If a tie still remains, the applicant who scores higher in Minimum Qualifications Section 3.1.4 will be awarded. If the proposals remain tied, the applicant with the highest interview score will be awarded.

5.9 Not applicable to this procurement

6.0 Not applicable to this procurement

7.0 MANDATORY CONTRACTING REQUIREMENTS

7.1 Contract Readiness

It is expected that all offerors 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 before the anticipated contract start date that is noted in sections 1.2 and 2.3 of this SOLICITATION. 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 SOLICITATION, if it determines it is in the best interest of New York State, if awardees do not meet the time frames needed for contract development and/or signature to meet the anticipated contract start date.

Before submitting a bid, an offeror is responsible for various verifications that 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:

<https://www.osc.state.ny.us/vendors/vendorselfservicesystem.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 SOLICITATION. Additional IT Application contract requirements are included in **Exhibit F**, available on the OCFS website (<https://ocfs.ny.gov/main/contracts/funding/>). By applying to this SOLICITATION offerors agree that they have reviewed and understand the contract terms and conditions. Contracts awarded under this SOLICITATION 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) unless EO202 procurement exceptions are in place. Upon contract award and completion of negotiations, OCFS will send successful awardees the complete contract for development and signature before submitting it to the OAG and to OSC for approval unless EO202 procurement exceptions are in place. Contractors may not begin to provide services before the contract start date; OCFS has no obligation to pay for services rendered before that time.

7.3 Not applicable to the procurement

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 SOLICITATION, 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.

1. Proof of Workers' Compensation Coverage

To comply with coverage provisions of the WCL, the Workers' Compensation Board requires that a business seeking to enter into a state contract submit appropriate proof of coverage to the state contracting entity issuing the contract. For each new contract or contract renewal, the contracting entity must obtain ONE of the following forms from the contractor and submit to OSC to prove the contractor has appropriate workers' compensation insurance coverage. Access the forms at:

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

- **Form C-105.2** - *Certificate of Workers' Compensation Insurance*, issued by private insurance carriers, or **Form U-26.3**, issued by the State Insurance Fund;³ or
- **Form SI-12⁴** - *Certificate of Workers' Compensation Self-Insurance*, or **Form GSI-105.2⁵** - *Certificate of Participation in Workers' Compensation Group Self-Insurance*; or
- **CE-200⁶** - *Certificate of Attestation of Exemption* from New York State Workers' Compensation and/or Disability and Paid Family Leave Benefits coverage.

2. 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-120.1³** - *Certificate of Disability Benefits Insurance*; or

- **Form DB-120.2** – *Certificate of Participation in Disability Benefits Group Insurance*; or
- **Form DB-155Z** - *Certificate of Disability Benefits Self-Insurance*; or
- **CE-200⁶** - *Certificate of Attestation of Exemption from New York State Workers' Compensation and/or Disability and Paid family Leave Benefits coverage.*

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

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

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 must require all staff working on this OCFS Project to complete an OCFS-4716, Contractor Employee and Volunteer Background Certification prior to the employee's work on the project. As long as doing so will not impede work from beginning on this project, it is preferred, but not required, that any awardee, to the extent legally permissible, conduct criminal background checks, credit checks and reference checks for all personnel engaged in the software development process, and establish a set of criteria for when management must be engaged regarding the results of such checks.

7.6 Minority- and Women-Owned Business Enterprise (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 MWBE 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 on any contract resulting from this procurement must document its good faith efforts to provide meaningful participation by MWBE as subcontractors and suppliers in the performance of the contract. To that end, by submitting a response to this SOLICITATION, the respondent agrees that OCFS may withhold payment pursuant to any contract awarded as a result of this SOLICITATION pending receipt of the required MWBE documentation. The directory of MWBE 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 MWBE 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 percent 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 SOLICITATION, 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 MWBE had the contractor achieved the contractual MWBE goals and (2) all sums actually paid to MWBE 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 nonelectronic 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 or prior to contract execution. 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 it within seven business days of receipt by submitting to the OCFS a written remedy in response to the notice 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 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 nonresponsive under the following circumstances:

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

The successful respondent will be required to attempt to use, 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 before submitting a request for final payment on the contract.

The successful respondent will be required to submit a quarterly M/WBE contractor Compliance and 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 submitting 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, 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 an MWBE 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 the same, in a format that OCFS requires 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 subcontractors will not discriminate against any employee or applicant for employment because of race, 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 percent** of discretionary nonpersonnel 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](#).

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

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 the New York State Empire State Development (ESD) business enterprises, including certified minority-/women-owned businesses; or
 - contacted ESD to obtain listings of New York State business enterprises and MWBEs;
 - 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 in a “discriminatory jurisdiction.” This is defined as a state or political subdivision that employs a preference or price distorting mechanism to the detriment of or otherwise discriminates against a New York State business enterprise in the procurement of commodities and services by the same or a 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

If the selected offeror's proposal includes services provided by an entity other than the offeror, it shall be mandatory for the selected offeror to assume full responsibility for the delivery for such items offered in the proposal. Should the selected offeror 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 offeror, not the offeror's financing institution or subcontractors. OCFS shall consider the selected offeror to be the sole responsible contractor regarding all provisions of the contract resulting from this SOLICITATION. Should an offeror wish to subcontract any of its responsibilities under any contract resulting from this solicitation, OCFS requires its contractors to obtain approval from OCFS before subcontracting.

7.11 Multiagency Use

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

7.13 Office of Information Technology Services

Before award selection, this SOLICITATION 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 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 offeror meeting the registration requirements but who is not registered according to 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 New York State sales and compensating use taxes can be found at the following websites:

Publication 223

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

ST-220-CA

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

ST-220-TD

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

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

7.15 Consultant Disclosure Requirements (If Applicable)

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 completing 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 31 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](#) and submit it by April 30 of each year to the following offices:

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

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

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

7.16 Application Development or Programming

Any web-based intranet and internet information and applications development or programming delivered pursuant to 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 persons 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 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 before 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>.

7.18 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 SOLICITATION. A copy of Appendix A3, with a completed and signed certification must be returned with the bidder’s proposal (See **Section 4.3.2 Proposal Content**.)

7.19 Summary of Forms Required After Award and Before 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. [New York State Consultant Services – Contractor’s 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 \(OCFS-4716\)](#) (See Section 7.5 for more information.)

7. [Confidentiality Non-Disclosure Agreement \(OCFS-4715\)](#) (See Section 7.5 for more information.)
8. [Contract Management System \(CMS\) Authorization Form \(OCFS-4821\)](#) (See Section 7.3 for more information.)

7.20 Summary of Forms Required During contract Term

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

7.21 Appendix A - Standard Clauses for NYS contracts

If applying, your organization must read, understand, and be prepared to accept all provisions of Appendix A – Standard Clauses for New York State contracts. Appendix A contains important information related to the contract to be entered into as a result of this SOLICITATION and will be incorporated, without change or amendment, into the contract entered into between OCFS and the selected offeror. By submitting a response to the SOLICITATION, the offeror 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>.

7.22 Executive Order Number 38

On January 18, 2012, Governor Andrew M. Cuomo issued Executive Order No. 38 “Limits on State-Funded Administrative Costs and Executive Compensation,” which requires that state agencies establish limits on state reimbursement of administrative and executive compensation costs for contracts and programs that provide direct services to clients. Contracts, payment requests, and reporting must comply with this Executive Order, which can be found at: <http://executiveorder38.ny.gov/>.

LEGAL NOTICE: Based upon the April 8, 2014, decision in *Agencies for Children's Therapy Services, Inc. v. New York State Department of Health, et al. (ACTS)*, covered providers conducting business in Nassau County need not file Executive Order No. 38 disclosures. For purposes of this notice, "conducting business" means having a place of business within Nassau County, providing program services or administrative services involving the use or receipt of state funds or state-authorized payments within Nassau County, or otherwise conducting business within Nassau County in relation to which executive compensation is paid. Please note that the ACTS decision is under appeal. Those affected by the ACTS decision should periodically check the Executive Order 38 website for updates regarding any changes to this notice.

7.23 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 SOLICITATION, regardless of delivery method, unless the director of contracts or his/her designee, as noted in **Section 1.1 Procurement Contact**, 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 a 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.

7.24 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, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected basis. The contractor must provide the Executive Order 177 certification statement before any award being made by OCFS.

8.0 PROGRAM-SPECIFIC REQUIREMENTS AND FORMS

Please see the following attachments to this SOLICITATION, which are available on the OCFS website (<https://ocfs.ny.gov/main/contracts/funding/>) and the New York State Contract Reporter website at (<https://www.nyscr.ny.gov/login.cfm>) and must be submitted with the offeror's proposal.

Attachment 1 – Proposer's Certified Statements

Attachment 2 – Child Care Grant Management Solution Cost Proposal, Titles and Rates for Additional Daycare grants

Attachment 3 – References