

**New York State  
Office of Indigent Legal Services**

**REQUEST FOR PROPOSALS  
CASELOAD STANDARDS STUDY**

**Issued: February 11, 2016**

**Submission Deadline: March 4, 2016 by 6:00 PM ET**

**IMPORTANT NOTICE:** A restricted period under the Procurement Lobbying Law is currently in effect for this Procurement and it will remain in effect until State Comptroller approval of the Contract. **Bidders are prohibited from contact related to this procurement with any New York State employee other than the designated contacts listed below** (refer to RFP A-6 Procurement Lobbying Form and <http://ogs.ny.gov/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>).

Designated Contacts for this Procurement:

|                     |                 |
|---------------------|-----------------|
| Contracts Officer:  | Karen Jackuback |
| Additional Contact: | Joe Wierschem   |

All contacts/inquiries shall be made by email to the following address:  
[QA@ils.ny.gov](mailto:QA@ils.ny.gov).

The RFP is available online at <https://ils.ny.gov/content/caseload-standards-RFP>.  
Requests for the RFP may be made by email to [QA@ils.ny.gov](mailto:QA@ils.ny.gov).

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# 1 Introduction

## 1.1 Summary

The New York State Office of Indigent Legal Services (ILS) is requesting proposals from qualified vendors to assist ILS in determining the appropriate numerical caseload/workload standards for criminal cases for providers of mandated legal representation in Onondaga, Ontario, Schuyler, Suffolk and Washington counties (hereinafter, the ‘five counties’).

ILS seeks to procure the services of a vendor to conduct a study, to be performed in consultation with ILS, which can be used as a basis for stipulating numerical caseload/workload standards for criminal cases for each provider in the five counties. The selected vendor will work in consultation with ILS at all stages of the study, including the conduct of the study itself. The study must result in the production of both recommended caseload standards for defender agencies in the five counties and a set of recommended weights for cases in criminal and appellate courts. The final report, including the caseload standards and weighting system, must be produced no later than November 15, 2016.

ILS requests proposals from qualified vendors which may include, but are not limited to, private sector firms, not-for-profit organizations, and public or private institutions such as universities or colleges with expertise in conducting research similar to research described in Sections 2 and 3 of this RFP.

This RFP also outlines the terms and conditions, and all applicable information required for submission of a proposal. Proposers should pay strict attention to the proposal submission deadline to prevent disqualification. To ensure compliance with these requirements and to prevent possible disqualification, Proposers should follow the format and instructions contained in this document.

## 1.2 Key Dates

It is anticipated that a contract will be awarded in response to this RFP based on the following schedule:

**Table 1 – Key Dates**

| <b>Date</b>                                       | <b>Event</b>                        |
|---|-------------------------------------|
| February 11, 2016                                 | Issuance of Request for Proposals   |
| <b>February 18, 2016 no later than 6:00 PM ET</b> | <b>Bidder Inquiries Due</b>         |
| On or about <b>February 25, 2016</b>              | ILS’ Response to Bidder Inquiries   |
| <b>March 4, 2016 no later than 6:00 PM ET</b>     | <b>Proposal Submission Deadline</b> |
| March – April                                     | Proposal Evaluation and Selection   |
| On or about May 1, 2016                           | Anticipated Contract Start Date     |

**ILS reserves the right to change any of the dates stated in this RFP. If such change occurs, ILS will notify all Bidders who received the RFP from ILS.**

### **1.3 Definitions**

The term “Offerer” shall be defined as an individual, organization, company or institution that is external to the State of New York and submits a bid for this procurement opportunity. For the purposes of this RFP, the following terms will be used interchangeably: Offerer, Bidder, Consultant, Contractor, Proposer, and Vendor.

## **2 Background**

### **2.1 Office of Indigent Legal Services**

Pursuant to Executive Law Article 30, Section 832(1), ILS was created “to monitor, study and make efforts to improve the quality of services provided pursuant to article 18-B of the county law.” ILS does not provide legal assistance or lawyer referrals to individuals. Rather, it operates pursuant to policies established by the Indigent Legal Services Board to assist county governments and indigent legal services providers in the exercise of their responsibility under County Law Article 18-B to provide the effective assistance of counsel to those persons who are legally entitled to counsel, but cannot afford to hire an attorney.

Further background on the structure and operation of ILS are available on its website: <https://www.ils.ny.gov/>.

### **2.2 Overview**

On March 11, 2015, a settlement agreement reached between the State of New York and a plaintiff class in *Hurrell-Harring et al. v. State of New York* was approved by the Albany County Supreme Court. (To fully review the settlement agreement, see <https://www.ils.ny.gov/files/Hurrell-Harring%20Final%20Settlement%20102114.pdf>.) The agreement vests ILS with the responsibility of determining caseload standards for criminal cases for providers of indigent legal services in the five counties. Specifically, paragraph IV(B)(1) of the settlement requires ILS to determine:

- (i) the appropriate numerical caseload/workload standards for each provider of mandated representation, whether public defender, legal aid society, assigned counsel program, or conflict defender, in each County, for representation in both trial- and appellate-level cases; (ii) the means by which those standards will be implemented, monitored, and enforced on an ongoing basis; and (iii) to the extent necessary to comply with the caseload/workload standards, the number of additional attorneys (including supervisory attorneys), investigators, or other

non-attorney staff, or the amount of other in-kind resources necessary for each provider of Mandated Representation in the Five Counties.<sup>1</sup>

Paragraph IV (B) (2) of the settlement provides further, specific guidance on the factors which should be considered by ILS as it develops caseload standards, which include:

...among other things, the types of cases attorneys handle, including the extent to which attorneys handle non-criminal cases; the private practice caseloads/workloads of attorneys; the qualifications and experiences [*sic.*] of the attorneys; the distance between courts and attorney offices; the time needed to interview clients and witnesses, taking into account travel time and location of confidential interview facilities; whether attorneys work on a part-time basis; whether attorneys exercise supervisory responsibilities; whether attorneys are supervised; and whether attorneys have access to adequate staff investigators, other non-attorney staff, and in-kind resources.

Regarding non-criminal cases, New York County Law 18-B requires providers of indigent legal services to represent parties in family court entitled to counsel under sections 262 and 1120 of the Family Court Act. Providers in the five counties provide representation variously in criminal, family and appellate cases. Accordingly, any study upon which ILS bases its criminal case standards must incorporate detailed analysis of the time and resource demands of these non-criminal cases.

The exact number of programs in the five counties may be subject to change if counties restructure their systems. However, at the time of writing, twelve providers are in operation (also shown in Table 1). These include two in Onondaga County (an assigned counsel program providing most criminal representation and a Legal Aid Society providing most family court and appellate representation), three in Ontario County (a public defender office, a conflict defender, and an assigned counsel program), three in Schuyler County (a public defender, a conflict defender, and an assigned counsel program), two in Suffolk County (a Legal Aid Society and an assigned counsel program) and two in Washington County (a public defender and an assigned counsel system.) The standards will need to apply to both institutional and non-institutional provider types. Table 1 contains ILS data on file from 2014 on the staffing and caseloads of the providers.

*Table 1: Selected details of 12 providers of representation in the five counties, 2014 data.*<sup>2</sup>

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<sup>1</sup> “Mandated Representation” is defined in the settlement agreement to mean, “constitutionally mandated publicly funded representation *in criminal cases* for people who are unable to afford counsel.” (emphasis added) (see section II of the settlement agreement).

<sup>2</sup> Note that the figures are full-time equivalent (FTE) numbers, and therefore count part-time staff as some fraction of full-time staff (e.g. 0.5). Staffing numbers for assigned counsel programs are listed as not applicable, because

| County     | Agency  | Function                              | Felony cases | Misdemeanor cases | Attorney staff (FTE) | Non-attorney staff (FTE) |
|------------|---|---------------------------------------|--------------|-------------------|----------------------|--------------------------|
| Onondaga   | Hiscock Legal Aid Society                             | Primary provider - appellate & parole | 68           | 586               | 17                   | 13.5                     |
| Onondaga   | Onondaga County Bar Assoc. (assigned counsel program) | Primary provider                      | 2,964        | 11,113            | N/A                  | N/A                      |
| Ontario    | Ontario County Public Defender                        | Primary provider                      | 847          | 2,015             | 11                   | 6.5                      |
| Ontario    | Ontario County Conflict Defender                      | Conflict provider                     | 3            | 20                | 1                    | 1                        |
| Ontario    | Ontario County Assigned Counsel Plan                  | Conflict provider                     | 107          | 159               | N/A                  | N/A                      |
| Schuyler   | Schuyler County Public Defender                       | Primary provider                      | 83           | 271               | 2                    | 1                        |
| Schuyler   | Schuyler County Conflict Defender                     | Conflict provider                     | 11           | 35                | 0.5                  | 0                        |
| Schuyler   | Assigned Counsel                                      | Conflict provider                     | 15           | 23                | N/A                  | N/A                      |
| Suffolk    | Legal Aid Society of Suffolk County, Inc.             | Primary provider                      | 4,822        | 23,677            | 102                  | 42                       |
| Suffolk    | Assigned Counsel Defender Plan of Suffolk County      | Conflict provider                     | 1,147        | 1,692             | N/A                  | N/A                      |
| Washington | Washington County Public Defender                     | Primary provider                      | 283          | 1,001             | 7                    | 2                        |
| Washington | Assigned counsel                                      | Conflict provider                     | 53           | 127               | N/A                  | N/A                      |

In preparing the study, the selected vendor should be prepared to assess attorney time required in the following types of case, in order to determine caseload standards for criminal cases:

- a. Criminal violent felony case (including felonies as defined in Penal Law 70.02 and class A felonies in Penal Law Article 125)
- b. Criminal other felony case (any felony not defined above)
- c. Criminal misdemeanor case (any offense for which a sentence of imprisonment of more than 15 days but not in excess of one year may be imposed)
- d. Violation cases (any offense for which a sentence of not more than 15 days may be imposed)
- e. Family court abuse or neglect case (under Family Court Act Article 10)
- f. Family court termination of parental rights case (under Family Court Act Article 6 part 3)
- g. Family court willful violation cases (under Family Court Act Article 4 (support) and Article 8 (family offense))

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staff in these programs are not directly responsible for providing representation. Note that staffing data may include attorneys whose practice is limited to family court representation: such attorneys would not be included in this study, as discussed in Section 3 below.

- h. Other family court case (where counsel is provided under Family Court Act sections 262 and 1120, e.g. custody/visitation)
- i. Appellate cases challenging a guilty plea or verdict
- j. Appellate cases challenging a sentence
- k. Parole revocation cases
- l. Revocation of sentence (e.g. probation revocation, failure to pay fine, violation of conditional discharge) or return of Adjournment in Contemplation of Dismissal case to calendar

In assessing the amount of time attorneys need to provide quality representation in criminal cases, it is typical to distinguish categories of tasks the attorneys must perform. Proposers should be prepared to assess attorney time required in the following types of activity:

- a. Client communication
- b. Meetings and negotiations with opposing counsel or other officials
- c. Requesting, receiving and reviewing discovery materials
- d. Investigation of the facts of the case
- e. Research into the law and legal issues in the case
- f. Drafting of pleadings, motions or correspondence
- g. Preparation for trial or appeal
- h. Time spent in court
- i. Identifying and addressing collateral consequences
- j. Sentencing research and advocacy
- k. Administrative tasks
- l. Non case-specific tasks such as travelling, waiting in court, training, supervision, or vacation

### **2.3 Caseload Study Reference**

Studies in several states including Texas, Missouri and Massachusetts have recently addressed the best ways to develop caseload standards. These studies were based on empirical research, took account of their unique state-level legal frameworks, and drew upon the expertise of local defenders and other stakeholders. While the details of any particular study may differ from what is required in this RFP, they may provide bidders with guidance when completing the study defined in this RFP.

These studies typically involve a three-phase design. The first phase begins with time-keeping where defenders track in detail their work, which allows the researchers to quantify how much time defenders put into specified activities in different classes of case. The second phase involves a 'time sufficiency' survey of defense attorneys, asking them whether they believe they have sufficient time to complete the activities the time-keeping study tracked. The results of this phase are commonly used to indicate the areas in which defenders believe they are unable to do their work to a

sufficient level of quality. Finally, the third phase convenes a meeting of experts and key stakeholders, commonly called a Delphi Panel, which is tasked with developing recommendations for the final caseload standards, and, pursuant to Delphi principles, participate in a series of iterative discussions whereby meeting members are repeatedly polled until they reach consensus on what the caseload limits should be.

Bidders on this RFP must plan a study involving all three phases mentioned. Bidders should be aware that while the studies performed by other states or prior to the issuance of this RFP may provide insight into the area being studied or the methodologies used, they should not unduly direct or influence the conduct of the study to be completed as a result of this procurement. The selected bidder is to conduct a new, empirically-based, methodologically-sound, and objective study of appropriate caseload/workload standards in the five counties.

As articulated in the settlement agreement, the caseload standards for criminal cases cannot be in excess of those permitted under the standards established by the National Advisory Commission on Criminal Justice Standards and Goals (Task Force on Courts, 1973) Standard 13.12.

### **3 Request for Proposal (RFP) Overview**

#### **3.1 Services Required**

This RFP seeks to procure the services of a vendor to conduct a research study to assist ILS in its obligation to “determine...the appropriate numerical caseload/workload standards for each provider of mandated representation...in each County, for representation in both trial- and appellate-level cases...” This study must follow the methodology described in Section 2.3 of this RFP and include the three phases mentioned; time-keeping, a time sufficiency survey, and a Delphi panel.

The study should be methodologically sound and defensible as a basis for data-driven standards. It should also represent a carefully considered attempt to quantify the amount of time it would take to provide ‘quality legal representation’ in accordance with the Hurrell-Harring settlement.

To perform these services successfully, the selected bidder will be responsible for completing the following tasks, activities and deliverables:

#### **1. Study Plan**

The Selected Bidder shall develop a detailed study plan which must, at a minimum, include a three-phase approach as outlined below:



a. Time Keeping Phase

- Assess the amount of time defenders in the five counties are spending on representation at present.
  - Referring to the data in Table 1 and other data acquired after contract start, estimate the time and levels of attorney participation required to gather sufficient time-keeping data.
  - Account for time in all case and activity types listed in Section 2.2 above.
  - Take steps to ensure that the study participants at the time keeping phase are reasonably representative samples of the target population, defined as attorneys providing representation in criminal cases, or a mixture of criminal and non-criminal cases. Attorneys providing representation only in non-criminal cases are not part of the target population.

b. Time Sufficiency Phase

- Survey attorneys in the counties on whether the amount of time they have for representation at present is sufficient to provide quality legal representation.
  - Study sufficiency of time in all case and activity types listed in Section 2.2 above.
  - Take steps to ensure that the study participants at the time sufficiency stage are also reasonably representative samples of the target population, defined as attorneys providing representation in criminal cases, or a mixture of criminal and non-criminal cases. Attorneys providing representation only in non-criminal cases are not part of the target population.

c. Delphi Panel

- Conduct a Delphi-style deliberative process.
  - Identify a group of appropriate experts for participation in the Delphi group, including attorneys from both institutional and non-institutional providers, with significant experience providing indigent legal services in all five counties. (Group members will be subject to ILS approval).
  - Guide the group through an iterative decision-making process to arrive at consensus on caseload standards in keeping with a Delphi methodology.
  - Take steps to assure that the decisions of the group consider:
    - National standards for the provision of quality legal representation
    - The importance of the local context of each county for delivering quality legal representation
    - The need to deliver quality legal representation efficiently
  - Document the group's reasoning for arriving at its decisions.

Deliverable:

- Final study plan detailing all aspects of how the study will be conducted, as well as a timeline for all activities ensuring completion of the Final Report by its due date indicated below. **Final Study Plan, reviewed and approved by ILS, one month after contract start.**
2. Conduct the study in accordance with the Study plan accepted and approved by ILS.
    - Throughout the performance of this activity, the selected bidder will provide updates to ILS at least every two weeks via conference call with ILS staff, or as requested by ILS.
  3. Final Report

Final study report to be presented to ILS.

- Final results of timekeeping phase showing amount of time attorneys are dedicating to representation, by case type and activity type. Final results of time sufficiency survey showing amount of time attorneys report they need to provide adequate representation, by case type and activity type.
- Final results of Delphi process, including documentation of reasoning behind decisions taken by the group on final caseload standards.
- Final results on recommended caseload standards for criminal cases for each of the five counties, including a weighting system accounting for (i) variability in work required for case types in criminal and appellate courts, (ii) non-case and non-attorney time, (iii) local differences in geography, caseload and service providers, (iv) all other factors mentioned in paragraphs IV (B) (1) and IV (B) (2) of the Hurrell-Harring settlement, referred to above.

Deliverable:

- Final Report – **Due November 15, 2016**
4. Documentation

The successful vendor will be required to submit all raw data collected during the course of the study (e.g., quantitative and qualitative timekeeping data, survey responses and Delphi panel records) to ILS in electronic or hard-copy formats as appropriate. All working papers and reports must be retained for a minimum of six (6) years unless the firm is notified in writing by ILS of the need to extend the retention period.

### **3.2 Contract Term**

The contract period is expected to commence on or about May 1, 2016 and expire on December 31, 2016. The timeline for the project should indicate the final report will be produced at the very latest by **November 15, 2016**.

### **3.3 Bidder Inquiries**

Questions or requests for clarification regarding the RFP should be submitted via email, citing the RFP page and section, by **6:00 PM ET on February 18, 2016** to [QA@ils.ny.gov](mailto:QA@ils.ny.gov). Questions will not be accepted orally and any question received after the deadline may not be answered. The comprehensive list of questions/requests for clarifications and the official responses will be posted to the ILS website and notice of such posting will be sent to all Bidders who have been furnished the RFP by ILS.

### **3.4 Addenda: Revisions to this RFP**

In the event that it becomes necessary to clarify or revise this RFP, such clarification or revision will be made by addendum. Any addendum to this RFP will become part of this RFP and part of any contract awarded as a result of this RFP.

Further, if a Bidder discovers any ambiguity, conflict, discrepancy, omission or other error in this RFP, immediately notify the contact person, Karen Jackuback, of such error and request clarification or modification to the document. ILS shall make RFP modifications by addenda, provided that any such modifications would not materially benefit or disadvantage any particular Bidder. Such clarification will be given by written notice to all parties who have been furnished an RFP by ILS.

If a Bidder fails, prior to the proposal submission deadline, to notify ILS of a known error or an error that reasonably should have been known, the Bidder shall assume the risk. If awarded the contract, the Bidder shall not be entitled to additional compensation or time by reason of the error or its late correction.

There are no designated dates for release of addenda. Therefore interested Bidders should check ILS' website on a daily basis from time of RFP issuance through bid opening. It is the sole responsibility of the Bidder to be knowledgeable of all addenda related to this procurement.

All RFP addenda will be issued on ILS' web site at the following address:  
[www.ils.ny.gov](http://www.ils.ny.gov).

### **3.5 Restriction of Communications**

Interested Bidders are prohibited from contact related to this procurement with any New York State employee other than designated personnel from the date this RFP is issued until the contract has been approved. Violation of this provision may be found at: <http://ogs.ny.gov/Aboutogs/regulations/defaultAdvisoryCouncil.html>.

All inquiries concerning this procurement must be addressed to the following designated contact for this Procurement:

Karen Jackuback, primary  
Joe Weirschem, secondary

All questions regarding this procurement must be submitted in writing, and received on or before the Bidder Inquiries Due date as stated on page 4 of this RFP, and sent via email addressed to [QA@ils.ny.gov](mailto:QA@ils.ny.gov). When corresponding by e-mail, clearly indicate the subject as: *Caseload Standards Study RFP*. No responses will be provided to inquiries made by telephone other than to request an RFP. Questions and answers will be posted on the RFP ILS' Response to Bidder Inquiries date as stated on page 4 this RFP at the following URL address:

<https://www.ils.ny.gov/content/caseload-stardards-RFP>.

## 4 Proposal Requirements

The Bidder should submit a proposal which clearly and concisely provides all of the information requested. Emphasis should be concentrated on conformance to the RFP instructions and requirements, as well as completeness and clarity in its proposal response. The Bidder is advised to thoroughly read and follow all instructions contained in this RFP. Proposals that do not comply with these instructions or do not meet the full intent of all the requirements of this RFP may be subject to scoring reductions during the evaluation process or may be deemed non-responsive.

To assist Bidders, we have provided a **Proposal Checklist** located in Appendix F of this RFP. A proposal that does not provide all the information requested below may be subject to rejection. The State does not require, nor desire, any promotional material which does not specifically address the response requirements of this RFP.

A complete proposal for this RFP is comprised of three (3) separate sealed proposals: *Technical*, *Cost*, and *Administrative*. Please see below for content and submission details.

### 4.1 Technical Proposal

Below is a listing of the technical information to be provided by the Bidder. The proposal should contain sufficient information to assure ILS of its completeness. Bidders are requested to keep the submission to a **maximum of 25 pages (not including resumes)**. No information is required beyond what is specifically requested. ILS requests that all technical proposals be **unbound and organized with dividers identified to match the specific information requested below**:

- A. Table of Contents
- B. Executive Summary
- C. Proposed Project Approach and Study Plan

- D. Bidder Experience and Qualifications
- E. Staff Experience and Qualifications

The purpose of the Technical Proposal is to provide Bidders with an opportunity to demonstrate their qualifications, competence, and capacity to undertake the engagement described herein, in a manner which complies with applicable laws and regulations, and the requirements of the RFP. The Technical Proposal should specifically detail the Bidder's experience and qualifications in providing the services sought by ILS. **There should be no dollar unit or costs included in the Technical Proposal document.**

#### **A. Table of Contents**

The Table of Contents should clearly identify the location of all material within the proposal by section and page number.

#### **B. Executive Summary**

An Executive Summary highlighting significant aspects of the Bidder's Technical Proposal should be provided. **Bidders are reminded that cost should not be included in this section.**

#### **C. Proposed Project Approach and Study Plan**

In this section of the Technical Proposal, Bidders should demonstrate their competence and capacity to conduct the Caseload Standards Study. The Bidder's proposal should include a narrative describing the project approach and provide information regarding how the Bidder will complete the tasks, activities and deliverables set forth in Section 3.1. This is an opportunity for the Bidder to indicate its understanding of the scope of work included in this RFP and describe how it plans to interact with ILS and the five counties, conduct the necessary research, and produce the reports containing the results of their work. Information provided in this narrative should demonstrate that the Bidder understands the skills and processes necessary to successfully complete the services detailed in this RFP.

The approach should include:

1. A preliminary work plan including an explanation of the methodology to be followed in the performance of the services required as set forth in this RFP. As part of this section of the proposal, Bidders should address the following:
  - a. Description of the Study
    - Include a description of how the three-step process will be achieved. Provide an overview of each process of the study, including a detailed timeline.

- Describe how you will assess the present criminal caseloads of providers, including the amounts of time and types of work dedicated to cases.
  - Describe how you will assess the additional time and resources necessary for the providers to provide quality representation. *Note this RFP requires use of both a time sufficiency survey and a Delphi-style group; Proposers should state how these data would be collected and analyzed.*
  - Describe how the study will incorporate participation from, and be generalizable to, both institutional and non-institutional providers of indigent legal services and assigned counsel.
  - Describe any information technology products that will be used, how they will be used, and how you will assure their successful use in this study.
- b. Accounting for non-case and non-attorney time
- Describe how the study will account for tasks or activities not related to specific cases, such as time spent traveling, waiting in court, or researching legal developments, and how such differences would be reflected in the numerical caseload standards and weights.
  - Describe how the study will consider and quantify the time required for supervision of attorney and non-attorney staff, and how such differences would be reflected in the numerical caseload standards and weights.
  - Describe how the study will consider and quantify the time required of non-attorney support staff such as investigators, paralegals, administrators and others, in order to meet standards, and how such differences would be reflected in the numerical caseload standards and weights.
- c. Accounting for differences in geography, caseload and service providers
- Describe how the study will account for geographic and other differences across the five counties, and how such differences would be reflected in the numerical caseload standards and weights.
  - Describe how the study will account for representation performed in specialty courts, e.g. drug courts or veteran courts, and how such differences would be reflected in the numerical caseload standards and weights.
  - Describe how the study will account for representation in cases which end prior to disposition – for example because a conflict of interest is discovered, or the person elects to retain private counsel.
  - Describe how the standards will be applied to assigned counsel attorneys, or other attorneys, who split their time between indigent legal representation and other work.
  - Describe how the study will account for the varying levels of qualifications and experience of the attorneys.

- d. Development and application of standards
  - Describe how your analysis will use the data gathered to produce both numerical caseload/workload standards for providers of indigent legal services and a weighting scheme for different types of cases.
2. A proposed study plan should describe the recommended technical approach including tasks and projected timetable. In addition, the plan should demonstrate how the firm intends to organize its personnel and manage its activities, including any work to be carried out by a subcontractor, during the engagement.

#### **D. Bidder Experience and Qualifications**

In this section of the Technical Proposal, Bidders should demonstrate relevant experience by providing the following:

1. A summary of the Bidder's technical expertise that describes the unique capabilities of the Bidder. This narrative should highlight the Bidder's ability to provide these services to ILS. The narrative should also include other entities comparable to New York State for whom the Bidder provides, or has provided, these services.
2. A description of any prior experience of the Bidder in providing services comparable to those detailed in Section 3.1, in the last five (5) years. Bidders should detail no more than five such similar engagements.

Each example should include:

- a. Name of client organization
- b. Type of client (e.g. government entity (local, State, Federal), private company etc.)
- c. Project description
- d. Project duration including start/end dates
- e. Number of Bidder staff (FTEs) involved
- f. Any other information regarding the project that would assist ILS in determining the success experienced by the client

#### **E. Staff Experience and Qualifications**

In this section of the Technical Proposal, Bidders should demonstrate that the staff proposed have the knowledge and ability to perform the services described in the RFP.

1. Bidders should identify the lead person(s) responsible for conducting the study and other staff to be assigned to the engagement. Bidders must submit

resumes for all members of the team, including any subcontract personnel who may work on the engagement.

2. State all relevant information regarding the number, qualifications and experience of the staff to be specifically assigned to this engagement. Indicate how the staff competency level over the term of the contract will be assured.
3. Supply a project organization chart, with names, showing the individuals to be assigned to the project with a specific indication of what role the individual will have on this project. The chart should include the title of each individual.

**Note: Resumes do not count toward the 25 page limit for the Technical Proposal.**

## **4.2 Cost Proposal**

Among the selection criteria is the fee the Bidder will charge ILS for the services described in this RFP. **Proposals with a fee format different from the format indicated in Appendix E – Cost Proposal Form will be deemed non-responsive and will not be considered for evaluation. All fees must be presented as a fixed dollar amount. An official authorized to contractually bind the prospective Bidder must sign the Cost Proposal.**

**ILS anticipates a total budget of \$260,000 for the services described in RFP Section 3.1, and therefore will not award a contract in excess of that amount.**

The Cost Proposal is an integral component of a Bidder's three-part submission. Bidders should take particular care to ensure the Cost Proposal is completed fully and in complete accordance with the instructions. Bidders are advised to submit questions about or requests for clarification of the Cost Proposal by **February 18, 2016**, the due date for submission of Bidder Inquiries.

Bidders are asked to provide a Cost Proposal itemizing all of the cost elements the Bidder will charge in providing the services described in Section 3.1. Bidders must provide a total project cost that includes all staff costs and expenses.

The Cost Proposal Form is divided into three tables and must be completed in its entirety according to the following instructions:

### **A. Staff Costs**

- The Staff Costs table should include the not-to-exceed hourly rate for each person performing the services described in Section 3.1 of the RFP. Please specify each person by name and their corresponding title.



- The Staff Costs table must include only one rate for each title. All fees must be presented as a fixed dollar amount. Do not leave blanks or enter a zero dollar amount for any rate.
- Hourly rates shall be inclusive of personal service costs (salary, fringe), and other overhead expenses related to the engagement, but not itemized in the Project Expenses table. Any and all personnel costs must be built into the hourly rates and not listed as a Project Expense.

B. Project Expenses

- All Project Expenses for which the Bidder expects to be compensated in the provision of the services should be included in the Project Expenses table. Project Expenses may include, but are not limited to, travel, supplies and materials, printed resources, equipment (computer), computer software, postage, and all other expenses.
- For each Project Expense, the Bidder must identify the expense and its cost.
- All purchases for equipment included in the Project Expense table will become the property of the State, and will be recouped by ILS after the project is complete.
- All Project Expenses will be added together to arrive at a total Project Expenses value.

C. Total Not-to-Exceed Project Cost

- The Staff Cost and the Project Expenses shall be carried over to the Total Not-to-Exceed Project Cost table. The two costs shall be added together to establish the Total Not-to-Exceed Project Cost.

If a Bidder's pricing model consists solely of staff hourly rates, then the Bidder only needs to complete the Staff Costs and Total Not-to-Exceed Project Cost tables. If a Bidder's pricing model consists of hourly staff rates and Project Expenses, then the Bidder must complete the Staff Cost, Project Expense, and Total Not-to-Exceed Project Cost tables.

The Cost Proposal Form should be signed by the individual who signs the proposal Bidder Information and Attestation page (an individual authorized to bind the bidding Bidder contractually).

Payments to the selected Bidder will only be made for actual hours worked, and will not exceed the hourly rates or Expense Costs contained in the proposal.

ILS will compensate the successful Contractor following submission of an approvable invoice, as further described in RFP Section 7.3.4: Compensation/Manner of Payment. Invoices should be submitted on a monthly basis, in the month following when services were performed. **A total of fifteen percent (15%) of the total amount billed shall be withheld and shall be paid to the Contractor upon successful completion of the final report.**

### **4.3 Administrative Proposal**

Appendix A-1 of this RFP states standard requirements that must be included in every contract entered into with ILS. The successful Bidder must agree to abide by these requirements and provide any information requested by ILS in connection with these requirements. Bidders should also complete and submit the administrative components listed below. **Failure to submit any of the requirements below may result in the rejection of a Bidder's proposal.**

- Appendix A-2: Bidder Information and Attestation.
- Appendix A-3: Non-Collusive Bidding Certification.
- Appendix A-4: Assurances of No Conflict of Interest or Detrimental Effect.
- Appendix A-5: Vendor Responsibility Questionnaire.
- Appendix A-6: Procurement Lobbying Form.
- Appendix A-7: Iran Divestment Act Certification.
- Appendix A-8: Participation by Minority Group Members and Women with Respect to State Contracts.
- Disclosure of Pending or Prior Lawsuits:  
Bidders should provide a list of any legal proceedings or investigations concerning the Bidder over the last five (5) years, including the nature and outcome of any lawsuit if litigation is complete. Bidders should specifically note any prior or pending lawsuit(s) or litigation between the Bidder and any New York State department, agency, board, or commission. The nature of the lawsuit and its outcome, if litigation is complete, should be described briefly.
- Freedom of Information Law Redaction Request:  
If there is specific information in a Bidder's proposal that a Bidder claims to be proprietary and/or trade secret information that meets the definition set forth in Section 87(2)(d), the Bidder should provide a letter in its Administrative Proposal outlining any specific concerns regarding disclosure under the New York State Freedom of Information Law (Article 6 of the Public Officers Law).

***Failure to submit each item above in the Administrative Proposal may result in disqualification of a Bidder's proposal.***

Neither ILS nor the State of New York will be liable for any costs incurred by a proposer in the preparation and production of a proposal, or for the costs of any services performed prior to the selection of the Contractor and the Contract start date.

#### **4.4 Reservation of Rights**

ILS reserves the right to:

- Reject any or all proposals received in response to the RFP;
- Withdraw the RFP at any time, at ILS' sole discretion;
- Accept a proposal and any subsequent proposal for the contract from someone other than the lowest cost Bidder consistent with the criteria for the evaluation of proposals;
- Make an award under the RFP in whole or in part;
- Disqualify any Bidder whose conduct and/or proposal fails to conform to the requirements of the RFP;
- Seek clarifications and revisions of proposals;
- Use proposal information obtained through site visits, management interviews and the State's investigation of a Bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the Bidder in response to the agency's request for clarifying information in the course of evaluation and/or selection under the RFP;
- Prior to the bid opening, amend the RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available;
- Prior to the bid opening, direct bidders to submit proposal modifications addressing subsequent RFP amendments;
- Change any of the scheduled dates;
- Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective Bidders;
- Waive any requirements that are not material;
- Negotiate with the successful Bidder within the scope of the RFP in the best interests of the State;
- Conduct contract negotiations with the next responsible Bidder, should the agency be unsuccessful in negotiating with the selected Bidder;
- Utilize any and all ideas submitted in the proposals received;
- Unless otherwise specified in the solicitation, every offer is firm and not revocable for a period of 180 days from the bid opening;
- Request best and final offers; and
- Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of an Offerer's proposal and/or to determine an Offerer's compliance with the requirements of the solicitation.

In addition, if it is subsequently determined by ILS that the successful Bidder is non-responsible, ILS may then invite the next highest rated, qualified Bidder to enter into negotiations for purposes of executing a contract.

#### **4.5 Submission of a Complete Three-Part Proposal**

Bidders submitting a proposal are indicating their acceptance of the conditions in this RFP. Submission of proposals in a manner other than as described in these instructions (e.g., facsimile, electronic transmission) will not be accepted. When submitting each proposal (Technical, Cost, and Administrative), Bidders will comply with the following:

1. Technical Proposals, Cost Proposals, and Administrative Proposals must be submitted in separately sealed packages;
2. "Original" documents must have an original signature; copied or electronic signatures will not be accepted;
3. "Original" proposals (Technical, Cost, and Administrative) must clearly be marked "Original" on the Bidder Information and Attestation page;
4. Clearly mark the outside packaging for each set of sealed proposals (Technical, Cost, and Administrative);
5. Clearly mark the original and each copy as "**RFP – Caseload Standards Study Proposal submitted by [Bidder's name];**" and
6. Each Bidder must submit:
  - Two (2) originals, four (4) hardcopies and one (1) text-searchable electronic copy in DVD/CD format of the *Technical Proposal*.
  - Two (2) originals and one (1) text-searchable electronic copy in DVD/CD format of the *Cost Proposal*.
  - Two (2) originals and one (1) text-searchable electronic copy in DVD/CD format of the *Administrative Proposal*.

A Proposal Checklist is located in Appendix F to assist Bidders in compiling proposals.

Note: The sealed, separate proposal packages may be submitted within one complete package for mailing.

If there is any discrepancy between the hardcopy proposal and the electronic copy, the hardcopy shall be deemed the official proposal.

A complete package (Technical, Cost, and Administrative Proposals) must be received before **6:00 PM ET on March 4, 2016**. Proposals should be sent to the following address:

Karen Jackuback  
Manager of Grant Solicitation and Distribution  
Office of Indigent Legal Services  
Alfred E. Smith Bldg., 11th Floor

80 South Swan St.  
Albany, NY 12210

***Late proposals will not be considered for award.***

## **5 Evaluation Process**

### **5.1 General Information**

ILS will evaluate each proposal based on the “Best Value” concept. This means that the proposal that “optimizes quality, cost, and efficiency among responsive and responsible Offerers” shall be selected for award (State Finance Law, Article 11, § 163).

ILS, at its sole discretion, will determine which proposal best satisfies its requirements. ILS 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. Qualified staff/individuals will evaluate all submitted proposals. ILS may request clarification of a proposal. The evaluation process will include separate technical and cost evaluations and will be conducted as set forth herein.

Upon review of proposals submitted by Offerers, ILS may, at its discretion, submit to Proposers written questions and requests for clarification relating to their Technical, Administrative, and/or Cost Proposals. Offerers will be provided a reasonable period of time in which to submit written responses to ILS’ requests for clarification.

Other than to provide clarifying information as may be requested by ILS, no Proposer will be allowed to alter its proposal or add information.

### **5.2 Submission Review**

ILS 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 4 of this RFP. Proposals that are materially deficient in meeting the submission requirements or have omitted material documents, in the sole opinion of ILS, may be rejected. All proposals passing the Submission Review will be evaluated.

### **5.3 Technical Evaluation (80 Points)**

An Evaluation Panel will independently score each Technical Proposal that meets the submission requirements of this RFP. Evaluation Panel members will score Technical Proposals to identify Bidders with the highest probability of satisfactorily providing the services described in Section 3 of this RFP. Individual Panel member scores will be averaged to calculate a technical score for each responsive Offerer. The technical

evaluation is 80 points of the final score with the following evaluation criteria categories:

- Proposed Project Approach
- Bidder Experience and Qualifications
- Staff Experience and Qualifications

Evaluations will be based on the Offerer's demonstration of its ability to provide the services required through its Technical Proposal.

During the evaluation process, ILS may require clarifying information from a Bidder. If specific sections of the written proposal require clarification, ILS will identify the section(s) and information requested in writing. The Bidder should respond by the deadline stated in the correspondence. In addition, ILS may use the proposal and ILS's own investigation of a Bidder's qualifications, experience, ability or financial standing, and any other material or information submitted by the Bidder in the course of evaluation and selection under this RFP. The State reserves the right to contact other sources not necessarily identified in the proposal to obtain information.

#### **5.4 Cost Evaluation (20 Points)**

ILS will examine the Cost Proposal documents and review them for responsiveness to cost requirements. If a Cost Proposal is found to be non-responsive, that proposal will be eliminated from consideration.

All complete, responsive proposals will receive a cost score.

Cost proposals will be evaluated on the Bidders' proposed Total Not-to-Exceed Project Cost. The maximum score (20 points) will be allocated to the proposal with the lowest cost according to this formula. All other proposals will receive a proportionate score to the proposal with the lowest cost, according to the following formula:

Cost points awarded = (20 potential points) X (Low Bid / Proposer's Bid)

#### **5.5 Final Composite Score**

The Final Composite score will be the sum of the Technical and Cost scores for each Offerer. The Offerer with the highest final composite score will be identified and selected as the successful Offerer.

## **6 Award of Contract/Debriefing**

### **6.1 Contract Award**

ILS expects to award a contract as a result of this RFP; however, ILS reserves the right to not award a contract, at its sole discretion.

1. Notification of selection/non-selection will be sent to Bidders by e-mail.
2. The Request for Proposals and all amendments/clarifications thereto, and the proposal submitted by the successful Bidder and any clarifications thereto, will serve as the basis for, and will be included as appendices to, the contract with ILS.
3. As stated in Section 4.4 in this RFP, in the event an agreement cannot be made with the highest rated qualified Bidder, ILS has the right to negotiate with the next highest rated qualified Bidder.
4. The delivery of services based on an approved contract is expected to commence on or about May 1, 2016.
5. Contract award is subject to approval of the Office of the Attorney General and the Office of the State Comptroller.
6. Upon contract award, public announcements or news releases pertaining to the contract shall not be made without the prior written consent of ILS.

## **6.2 Debriefings**

Unsuccessful Bidders shall be notified upon ILS' selection of a Contractor. Consistent with the New York State Procurement Guidelines, Proposers may, within five (5) business days of notification of selection/non-selection, request a debriefing with the Director of ILS to discuss the evaluation of their proposal.

## **7 Contractual Requirements**

### **7.1 Written Contract**

The written contract with the awarded Bidder shall be a State contract including "Standard Clauses for New York State Contracts" (Appendix A-1). The entire Agreement shall consist of the documents and appendices listed below. Conflicts between these documents shall be resolved in the following order of precedence:

1. Appendix A-1: Standard Clauses for NYS Contracts;
2. The Contract, including all exhibits, attachments, and appendices;
3. The RFP and any and all modifications and clarifications thereto; and
4. The Contractor's Proposal and any clarifications thereto.

### **7.2 Appendices**

Important information affecting Bidders is contained in the Appendices and should be carefully examined. In particular, please note the following:

**Appendix A-1:** The “Standard Clauses for New York State Contracts” must be included in the contract with the awarded Bidder.

**Appendix A-2:** The Bidder Information and Attestation, which will be considered an integral part of the Proposal, should be signed and submitted with the Administrative Proposal. The Bidder Information and Attestation should be signed by an individual authorized to bind the Bidder contractually. A proposal with an unsigned Bidder Information and Attestation may be rejected. **Modified forms will not be accepted.**

**Appendix A-3:** Non-Collusive Bidding Certification. This form should be signed and submitted with the Administrative Proposal.

**Appendix A-4:** Assurances of no Conflict of Interest or Detrimental Effect. This form must be signed by an authorized executive or legal representative and should be submitted with the Administrative Proposal. **Modified forms will not be accepted.**

**Appendix A-5:** A Vendor Responsibility Questionnaire should be certified and filed by the proposal submission deadline. The determination is required for review and approval of the contract by the State Comptroller’s Office. Bidders are invited to file online with the New York State VendRep System, or submit a paper questionnaire.

For any subcontract in excess of \$100,000, a Vendor Responsibility Questionnaire should be certified and filed by the proposal submission deadline. Subcontractor firms are invited to file online with the New York State VendRep System, or submit a paper questionnaire with the Bidder’s proposal.

**Appendix A-6:** Procurement Lobbying Form should be completed and submitted with the proposal confirming and certifying compliance with the Procurement Lobbying Law, including disclosure of any findings of non-responsibility.

**Appendix A-7:** Clauses stating compliance with Iran Divestment Act of 2012. This form should be signed and submitted with the Administrative Proposal.

**Appendix A-8:** Article 15-A Requirements. Complete and submit Attachment A-8.1 Staffing Plan Form with the Administrative Proposal.

**Appendix B:** State Finance Law Section 163(4) (g) imposes certain reporting requirements on contractors doing business with New York State. Concerning these reporting requirements, the selected Bidders agree to complete and submit an initial planned employment data report (Form A) upon notification of selection by ILS. The Bidder also agrees to submit an annual employment report (Form B) by May 15 of each year of the contract. Both Form A and B are obtained as indicated in Appendix B.

**Appendix C:** A Sales Tax Certification should be submitted upon notification of selection by ILS, as it is required for review and approval of the contract by the Comptroller’s Office



**Appendix D:** Proof of Workers' Compensation and Disability Insurance as required by Sections 57 and 220 of the New York State Workers' Compensation Law (WCL) should be submitted by the Insurer upon notification of selection. This provision shall also apply to any proposed subcontractor with performing services under the resulting contract in excess of \$100,000.

**Appendix E:** The Cost Proposal Form must be signed and submitted separately from the Technical and Administrative Proposals.

**Appendix F:** The Proposal Checklist should be completed and submitted.

### **7.3 Additional Provisions**

In addition to the established provisions in Standard Clauses for NYS Contracts (Appendix A-1), the contract that results from this RFP is expected to substantially contain the terms and conditions set forth in this section:

1. Relationship between ILS and Contractor

The relationship of the Contractor to ILS shall be that of an independent contractor. In accordance with such status as an independent contractor, the Contractor covenants and agrees to act consistent with such status: to neither hold itself out as, nor claim to be, an officer or employee of ILS or the State by reason hereof; and not to, by reason hereof, make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of ILS or the State, including but not limited to workers' compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership credit.

2. Additional Services Requested

ILS may, at any time, by written notice, make changes or additions to work or services within the general scope of the contract resulting from this RFP (not to include professional services requiring licenses or specialized expertise such as engineering, architectural, and environmental consulting, abatement, treatment, and testing work) for unanticipated needs. If any such change or addition causes an increase or decrease in the cost of, or in the time required for, performance of the contract, an equitable adjustment may be made in the price using the billing rates set forth in the contract, and the Contractor shall be notified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor of the notification of change; provided however, that ILS, if it decides that the facts justify such action, may receive and act upon such claim as asserted at any time. Nothing in this clause shall excuse the Contractor from proceeding with this contract as modified.

### 3. Compensation/Manner of Payment

Reimbursement of the Contractor will be based upon the fees stipulated in the Contract. ILS will compensate the Contractor following submission of an approvable invoice. A total of fifteen percent (15%) of the total amount billed shall be withheld and shall be paid to the Contractor upon successful completion of the final report.

The Contractor shall provide complete and accurate billing invoices in order to receive payment. Billing invoices submitted must contain all information and supporting documentation required by the Contract, ILS and the State Comptroller. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Director of the Budget, in his sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State Comptroller's website at: [www.osc.state.ny.us/epay/index.htm](http://www.osc.state.ny.us/epay/index.htm), by e-mail at [epunit@osc.state.ny.us](mailto:epunit@osc.state.ny.us), or by telephone 518-486-1255.

In order for the selected Consultant(s) to do business with NYS, they must obtain a Vendor ID within the Statewide Financial System (SFS). Transactions with Bidders cannot be processed unless the Bidder has secured a Vendor ID. For more information about this process or obtaining a Vendor ID, please contact OSC's Vendor Management Unit at [VMU@osc.state.ny.us](mailto:VMU@osc.state.ny.us) or call them at 855-233-8363.

The State of New York is not liable for any costs incurred by a Bidder in the preparation and/or production of any proposal, or for any work performed prior to the execution of a formal contract.

### 4. Vendor Responsibility Determination

ILS will conduct a review of each prospective Contractor's Vendor Responsibility Questionnaire (Appendix A-5) to provide reasonable assurances that the Contractor is responsible.

ILS will make a finding of responsibility or non-responsibility before making a contract award, considering any information that comes to its attention concerning the Vendor's responsibility.

If ILS identifies potentially negative information in its review, ILS will notify the Contractor. If ILS makes a preliminary finding that the Contractor is non-responsible, ILS will detail in writing to the Contractor the reasons(s) for the

preliminary determination, and will provide an opportunity for the Contractor to respond before the determination is finalized.

A Vendor awarded a contract is required to update their responsibility determination if a material event occurs requiring an amendment. The awarded Contractor is required to update vendor responsibility questionnaires as new information becomes available.

ILS reserves the right to terminate a contract for non-responsibility, including failure to disclose information.

This provision shall also apply to any proposed subcontractor with performing services under the resulting contract in excess of \$100,000.

#### 5. Freedom to Undertake

With respect to any contract or employment as an independent contractor or employee of New York State, or any New York public corporation as defined in Section 66 of the New York General Construction Law or any agency or department of either, pursuant to the terms of any other present or future agreement, expressed, implied, entered into with such entity, if any, the Bidder by submitting a proposal thereby covenants and represents that there is no conflict as to hours required to be worked or duties required to be performed pursuant to the terms of this proposal and any aforesaid contract or employment.

#### 6. Reports and Findings

Any and all reports and findings rendered to ILS by the Contractor shall be the exclusive property of ILS and subject to its use and control. The Contractor herewith waives any and all rights to such reports and findings and the control thereof.

The Contractor shall take all appropriate action to protect the confidentiality of all information supplied to it or developed by it during the course of its performance under the terms of the contract.

ILS reserves the right to require the successful vendor to execute a Non-Disclosure Agreement, and to require that Contractor staff sign ILS's Information Security Acceptance Form.

#### 7. Records Access

ILS staff, others authorized by ILS such as representatives of the Federal government, or other State agencies authorized by State law, shall have access

to and the right to examine the books, documents, work papers, documentation of charges, or other records of the Contractor involved in transactions relating to the contract during the contract period and for a period of six (6) years after final payment for said services. The Contractor will make all records, including related documents of any and all subcontractors, available to New York State.

#### 8. Work Paper Retention and Availability

The work papers to be prepared by a Contractor during the engagement will be the Contractor's property although copies thereof and access to them will be made available, upon request, to ILS, representatives of the Federal government and State agencies when authorized by ILS, and other State agencies authorized by existing law, for a period of six (6) years following the date of the final payment under the contract. All such requests, and their disposition, shall be authorized by ILS.

The Contractor selected agrees to make personnel available to explain fully all data, materials, and work papers developed during the engagement for a period of six (6) years following the date of the final payment under the contract.

#### 9. Performance Monitoring

The Contractor's performance will be assessed by the State according to the achievement of Contractor's contractual obligations in a timely and professional manner, as set forth herein. ILS will utilize progress reports and periodic meetings to ensure that the project is carried out on a timely basis and results in effective recommendations and work products.

#### 10. Disputes and Dissatisfaction/Conflict Resolution

In the event ILS is dissatisfied with the Contractor's performance of the Services provided under the Agreement, including but not limited to a breach of the Agreement on the part of the Contractor, ILS shall notify the Contractor of the dispute in writing. In the event the Contractor has any disputes with ILS, the Contractor shall notify ILS in writing. Such notification in both cases shall hereinafter be referred to as "Notice of Conflict", or in the case of contract breach, "Notice of Default".

If either ILS or the Contractor (each individually, a "Party" and collectively, the "Parties") notifies the other of such dispute or dissatisfaction, the Party receiving the notification shall then make good faith efforts to amicably resolve the problem or settle the dispute, including meeting with the notifying Party's representatives to diligently attempt to reach a mutually satisfactory result.

In the event of a dispute, both Parties will continue to fulfill their performance obligations under the Agreement.

Nothing shall limit either Party's ability to pursue all legal remedies. If the Parties are unable to amicably resolve the dispute after the steps described above, then either Party may seek legal or equitable relief in a court of competent jurisdiction.

## 11. Termination

ILS reserves the right to terminate the services of the Contractor, in whole or in part, upon thirty (30) days written notice for any reason, including convenience, or immediately for cause. Upon notice of termination, the Contractor shall stop work immediately and complete only those specific assignments, if any, subsequently approved by ILS. In the event of such termination other than for cause, the Contractor shall be entitled to compensation for (a) services performed through the date of termination that are accepted by the State, (b) any subsequent services rendered in connection with any successor consultants and contractors, including transfer of records or briefings, and (c) any other services deemed necessary or desirable by ILS. The Contractor agrees to cooperate to the fullest respect with any successor consultants and contractors. After receipt of the Notice of Termination, the Contractor shall exercise all reasonable diligence to accomplish the cancellation or diversion of its outstanding commitments covering personal services and extending beyond the date of such termination to the extent that they relate to the performance of any work terminated by the Notice.

The Contractor shall submit its termination claim to ILS promptly after receipt of a Notice of Termination, but in no event later than 30 days from the effective date thereof, unless one or more extensions in writing are granted by ILS upon written request of the Contractor within such 30-day period or authorized extension thereof. Upon failure of the Contractor to submit its termination claim within the time allowed, ILS may determine, on the basis of available information, the amount, if any, due to the Contractor by reason of termination, and shall thereupon pay to the Contractor the amount so determined.

If the termination for cause results from unsatisfactory performance by the Contractor, the value of the work performed by the Contractor prior to termination shall be established by ILS.

The Contractor agrees to transfer title to ILS, and to deliver in the manner, at the time, and to the extent, if any, directed by ILS, such information and work products for which the Contractor produced and received compensation by ILS.

Bidders responding to this RFP should note that ILS recognizes that conflicts may occur in the future because the selected Bidder may have existing or establish new relationships. ILS will review the nature of any relationships and reserves the right to terminate the contract for any reason or cause if, in the judgment of ILS, a real or potential conflict of interest cannot be cured.

## 12. Indemnification and Contractor Liability

The Contractor shall be fully liable for any act or omission of the Contractor, its employees, subcontractors and agents, and shall fully indemnify and hold harmless ILS and the State from third-party suits, actions, damages and costs of every name and description relating to personal injury and damage to real or tangible personal property or intellectual property caused by fault or negligence of Contractor, its employees, subcontractors or agents arising from the Contractor's performance of the Contract, without limitation; provided, however, that the Contractor shall not be obligated to indemnify ILS and the State for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act by ILS and the State or the acts of third parties, other than those provided by the Contractor to perform under the resulting contract. In connection with the foregoing, ILS and the State shall give Contractor, (i) prompt written notice of any action, claim or threat of suit, (ii) the opportunity to take over, settle or defend such action, claim or suit at Contractor's sole expense, and (iii) assistance in the defense of any such action at the expense of Contractor.

Except as otherwise set forth as being without limitation in this indemnification paragraph above, the limit of liability shall be as follows: Contractor's liability for any damages arising out of, or related to the Contract, whether in contract, tort or otherwise, shall in no case exceed direct damages in an amount equal to the greater of (i) two times the amount disbursed by the State to the Contractor, or (ii) one million dollars (\$1,000,000).

Notwithstanding the above, the Contractor and ILS/State shall not be liable for any consequential, indirect or special damages of any kind which may result from such performance, including, without limitation, damages resulting from loss of use or loss of profit by ILS and the State, the Contractor, or by others.

The Contractor shall be fully responsible for performance of work by and conduct of its staff and subcontractor's staff and that ILS reserves the right to request removal of any Contractor staff or subcontractor staff if, in ILS's discretion, such staff is not performing in accordance with the Contract.

The Contractor warrants that its services shall be performed in accordance with applicable professional standards and that the Contractor shall correct, at no charge to ILS or the State, services which fail to meet applicable professional

standards and which result in obvious or patent errors in the progression of its work.

### 13. Notices

All notices, demands, instructions, claims, approvals, and disapprovals are required to be given to either Party at the addresses set forth in the final contract document or to such other address as either Party shall have provided the other.

### 14. Waiver, Modification, Execution, or Severability

No waiver or modification of the contract or any covenant, condition, or limitation herein contained shall be valid unless in writing and executed by the Parties hereto, and no evidence of any waiver or modification shall be offered or received in evidence in any action between the Parties hereto arising out of or affecting the contract, or the rights or obligations of any Party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid, and the Parties further agree that the provisions of the paragraph may not be waived except as herein set forth.

The written contract for which the Contractor is selected shall contain the sole and entire agreement between the Parties and shall supersede any and all other agreements between the Parties.

The Parties hereto shall execute such other further documents as may be required to effectuate the terms of the contract.

In the event that any provision of the resulting Agreement shall be declared void, voidable, illegal or invalid for any reason, such provision shall be of no force and effect only to the extent that it is so declared void, voidable, illegal or invalid. All of the provisions of the Agreement not specifically found to be so deficient shall remain in full force and effect.

### 15. Freedom of Information Law

New York State's Freedom of Information Law (FOIL) (Public Officers Law, Article 6, Sections 84-90), available at: <http://www.dos.state.ny.us/coog/index.html>, promotes the public's right to know the process of governmental decision-making and grants maximum public access to governmental records. The proposal of the successful Bidder and the proposals of unsuccessful Bidders may be subject to disclosure under FOIL.

However, pursuant to Section 87(2)(d) of FOIL, a State agency may deny access to those portions of proposals or portions of a successful Bidder's contract which are "trade secrets" or submitted to an agency by a commercial

enterprise or derived from information obtained from a commercial enterprise and which, if disclosed, would cause substantial injury to the competitive position of the subject enterprise.

Please note that all information that a Bidder may claim as proprietary, copyrighted or rights-reserved is not necessarily protected from disclosure under FOIL.

If there is information in a Bidder's proposal that a Bidder claims meets the definition set forth in Section 87(2)(d), the Bidder should provide a letter in its Administrative Proposal outlining any specific concerns.

Failure to identify the information which a Bidder believes should be protected by Section 87(2)(d) may result in such information being disclosed if a request is received.

It is a Bidder's responsibility to consult an attorney with any questions the Bidder may have about New York State's Freedom of Information Law. All work products described herein may also be subject to FOIL disclosure.

The State will not honor any attempt by a Bidder either to designate its entire bid proposal as proprietary and/or to claim copyright protection for its entire proposal.

The Contractor must provide to ILS all information, records, and other written material it produces, possesses, or relies upon if such material is the object of a legitimate request to ILS pursuant to the Freedom of Information Law.

#### 16. Force Majeure

Neither Party will be liable for losses, defaults, or damages under the resulting Agreement which result from delays in performing, or inability to perform, all or any of the obligations or responsibilities imposed upon it pursuant to the terms and conditions of the Agreement, due to or because of acts of God, the public enemy, acts of government, earthquakes, floods, civil strife, fire or any other cause beyond the reasonable control of the Party that was so delayed or so unable to perform, provided that such Party was not negligent and shall have used reasonable efforts to avoid and overcome such cause. Such Party will resume full performance of such obligations and responsibilities promptly upon removal of any such cause.

#### 17. Executory Clause

The resulting Agreement shall be deemed executory only to the extent of moneys annually appropriated and available for this purpose, and no liability on account thereof shall be incurred by ILS beyond the amount appropriated. It is



understood that neither this Agreement nor any representation by any public employee or officer creates any legal or moral obligation to request appropriate, or make available moneys for the purpose of the Agreement.

#### 18. Proposal Ownership

All proposals and accompanying documentation become the property of the State of New York and will not be returned. ILS reserves the right to use any portions of the Bidder's proposal not specifically noted as proprietary.

#### 19. Contractor Staff

Contractor staff assigned to work on this project shall be subject to approval by ILS. It is highly desirable that staff assigned to work on this project continue to work on this project until completion. ILS reserves the right to require security clearance and criminal history checks of the Contractor and/or staff.

The Contractor specifically represents and agrees that its members, officers, employees, agents, servants, consultants, shareholders, and subcontractors have and shall possess the experience, knowledge, and character necessary to qualify them individually for the particular duties performed hereunder.

The Agreement resulting from this RFP is intended to secure the professional services of the Contractor because of its ability and shall not be assigned, conveyed, transferred, or disposed of by the Contractor.

The Contractor should notify ILS of any proposed changes in staff immediately. ILS has an absolute right and discretion to approve or disapprove any proposed changes in staff. ILS, in each instance, will be provided with a summary of experience of the proposed substitute and an opportunity to interview that person, prior to giving its approval or disapproval; approval shall not be unreasonably withheld.

The Contractor agrees not to subcontract any of its services, unless as indicated in its proposal, without the prior written approval of the Office of Indigent Legal Services. Approval shall not be unreasonably withheld upon receipt of written request to subcontract.

All employees of the Contractor, or of its Subcontractors, who shall perform Services under this contract, shall possess the necessary qualifications, training, licenses, and permits as may be required within the jurisdiction where the Services specified are to be provided or performed, and shall be legally entitled to work in such jurisdiction. All persons, corporations, or other legal entities that perform Services under this Agreement on behalf of Contractor shall, in

performing the Services, comply with all applicable Federal and State laws concerning employment in the United States.

#### 20. Reservations

ILS reserves the right to employ other consultants and contractors in connection with its responsibilities and functions. In that event, Contractor will, as directed by ILS, cooperate and work in harmony with such consultants and contractors.

#### 21. Subcontractors

In the event ILS approves the use of selected Subcontractors, ILS reserves the right to require the subcontracts be in writing and contain provisions, which are functionally identical to, and consistent with, the provisions of this RFP including, but not limited to, Appendix A – Standard Clauses for New York State Contract.

# APPENDIX A-1: STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

January 2014

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

**1. EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

**2. NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

**3. COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

**4. WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall

be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

**5. NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

**6. WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor

Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

**7. NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

**8. INTERNATIONAL BOYCOTT PROHIBITION.** In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

**9. SET-OFF RIGHTS.** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

**10. RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of

inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

**11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.** (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

**12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.** In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00

whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 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 Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

**13. CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments

thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

**14. GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

**15. LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

**16. NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

**17. SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

**18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

**19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment

Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

**20. OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division for Small Business  
Albany, New York 12245  
Telephone: 518-292-5100  
Fax: 518-292-5884  
email: [opa@esd.ny.gov](mailto:opa@esd.ny.gov)

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

NYS Department of Economic Development  
Division of Minority and Women's Business Development  
633 Third Avenue  
New York, NY 10017  
212-803-2414  
email: [mwbcertification@esd.ny.gov](mailto:mwbcertification@esd.ny.gov)  
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

**21. RECIPROCITY AND SANCTIONS PROVISIONS.** Bidders are hereby notified that if their principal place of

business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

**22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.** Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

**23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.** If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

**24. PROCUREMENT LOBBYING.** To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

**25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.**

To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

**26. IRAN DIVESTMENT ACT.** By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to

be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at:  
<http://www.oqs.ny.gov/about/regs/docs/ListofEntities.pdf>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

## APPENDIX A-2: BIDDER INFORMATION AND ATTESTATION

### PLEASE SUBMIT WITH ADMINISTRATIVE PROPOSAL

Please Note: A "No" response to questions three through seven (3-7) may be grounds for disqualification from this procurement.

|   |   |  |                                 |                                |
|---|---|--|---------------------------------|--------------------------------|
| RFP Name: <u>Caseload Standards Study</u> |   |  |                                 |                                |
| Proposal Date: _____                      |   |  |                                 |                                |
| <b>1</b>                                  | <b>Information Regarding the Proposer's Bidder:</b> | Name: _____  |                                 |                                |
|   |   | Address: _____   |                                 |                                |
|   |   | City, State, Zip Code: _____   |                                 |                                |
|   |   | Telephone Number: _____  |                                 |                                |
|   |   | Taxpayer ID: _____   |                                 |                                |
|   |   | NYS Vendor ID: _____   |                                 |                                |
| <b>2</b>                                  | <b>Primary Contact Concerning this Proposal:</b>    | Name: _____  |                                 |                                |
|   |   | Title: _____   |                                 |                                |
|   |   | Address: _____   |                                 |                                |
|   |   | City, State, Zip Code: _____   |                                 |                                |
|   |   | Telephone Number: _____  |                                 |                                |
|   |   | Email address: _____   |                                 |                                |
| <b>3</b>                                  | <b>Irrevocable Offer:</b>                           | The rates quoted are an irrevocable offer that is good through the execution of a contract.  | <input type="checkbox"/><br>Yes | <input type="checkbox"/><br>No |
| <b>4</b>                                  | <b>Willingness to Perform All Services:</b>         | The Proposer is willing to, and capable of performing all of the deliverables and services described in this RFP.  | <input type="checkbox"/><br>Yes | <input type="checkbox"/><br>No |
| <b>5</b>                                  | <b>Proposer Guarantees:</b>                         | <ul style="list-style-type: none"> <li>a. The Proposer certifies it can and will provide and make available, as a minimum, all services set forth in the RFP.</li> <li>b. The Proposer has read Section 7, Contractual Requirements, and agrees that the rights and prerogatives as detailed in that Section are retained by ILS.</li> <li>c. The Proposer agrees to be bound by the Contractual Requirements found in Section 7 of the RFP.</li> </ul>  | <input type="checkbox"/><br>Yes | <input type="checkbox"/><br>No |
| <b>6</b>                                  | <b>Proposer Warranties:</b>                         | <ul style="list-style-type: none"> <li>1. Proposer warrants that it is willing and able to comply with New York laws with respect to foreign (non-New York) corporations.</li> <li>2. Proposer warrants that it is willing and able to obtain an errors and omissions insurance policy providing a prudent amount of coverage for the willful or negligent acts, or omissions of any officers, employees or agents thereof.</li> <li>3. Proposer warrants that it will not delegate or subcontract its responsibilities under an agreement without the written permission of ILS.</li> </ul> | <input type="checkbox"/><br>Yes | <input type="checkbox"/><br>No |



|          |   |   |                                 |                                |
|----------|---|---|---------------------------------|--------------------------------|
|          |   | <b>4. Proposer warrants that all information provided by it in connection with this proposal is true and accurate.</b>  |                                 |                                |
| <b>7</b> | <b>Appendix A-1:</b>  | <b>The Proposer has read, understands, and accepts the provisions of Appendix A-1, Standard Clauses for NYS Contracts, which will be incorporated, without change or amendment, into the contract entered into between ILS and the selected Proposer.</b> | <input type="checkbox"/><br>Yes | <input type="checkbox"/><br>No |
| <b>8</b> | <p><b>By my signature on this Attestation, I certify that I am authorized to bind the Bidder contractually and that the above information is true and accurate.</b></p> <hr/> <p><b>Typed or Printed Name of Authorized Representative of the Bidder</b></p> <hr/> <p><b>Title/Position of Authorized Representative of the Bidder</b></p> <hr/> <p><b>Signature</b></p> <hr/> <p><b>Date</b></p> |   |                                 |                                |

**APPENDIX A-3: NON-COLLUSIVE BIDDING CERTIFICATION**

In accordance with New York State Finance Law, § 139-d, by submitting its bid, each Bidder and each person signing on behalf of any other Bidder certifies, and in the case of a joint bid, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his or her knowledge and belief:

- [1] The prices of this bid have been arrived at independently, without collusion, consultation, communication, or agreement, for the purposes of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor;
- [2] Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and
- [3] No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Signature: \_\_\_\_\_

*Joint or combined bids by Companies or Bidders must be certified on behalf of each participant.*

\_\_\_\_\_  
Legal name of Person, Bidder or Corporation  
  
Name: \_\_\_\_\_  
  
Title: \_\_\_\_\_

\_\_\_\_\_  
Legal name of Person, Bidder or Corporation  
  
Name: \_\_\_\_\_  
  
Title: \_\_\_\_\_

**APPENDIX A-4: ASSURANCES OF NO CONFLICT OF INTEREST  
OR DETRIMENTAL EFFECT**

The Bidder offering to provide services pursuant to this RFP, as a contractor, joint venture contractor, or subcontractor, attests that its performance of the services outlined in this RFP does not and will not create a conflict of interest with nor position the Bidder to breach any other contract currently in force with the State of New York.

Furthermore, the Bidder attests that it will not act in any manner that is detrimental to any State project on which the Bidder is rendering services. Specifically, the Bidder attests that:

- a. The fulfillment of obligations by the Bidder, as proposed in the response, does not violate any existing contracts or agreements between the Bidder and the State;
- b. The fulfillment of obligations by the Bidder, as proposed in the response, does not or will not create any conflict of interest, or perception thereof, with any current role or responsibility the Bidder has with regard to any existing contracts or agreements between the Bidder and the State;
- c. The fulfillment of obligations by the Bidder, as proposed in the response, does not and will not compromise the Bidder's ability to carry out its obligations under any existing contracts between the Bidder and the State;
- d. The fulfillment of any other contractual obligations that the Bidder has with the State will not affect or influence its ability to perform under any contract with the State resulting from this RFP;
- e. During the negotiation and execution of any contract resulting from this RFP, the Bidder will not knowingly take any action or make any decision which creates a potential for conflict of interest or might cause a detrimental impact to the State as a whole, including but not limited to, any action or decision to divert resources from one State project to another; and,
- f. In fulfilling obligations under each of its State contracts, including any contract which results from this RFP, the Bidder will act in accordance with the terms of each of its State contracts and will not knowingly take any action or make any decision which might cause a detrimental impact to the State as a whole including but not limited to, any action or decision to divert resources from one State project to another.

Bidders responding to this Request for Proposals should note that ILS recognizes that conflicts may occur in the future because a Bidder may have existing or establish new relationships. ILS will review the nature of any such new relationship and reserves the right to terminate the contract for cause if, in its judgment, a real or potential conflict of interest cannot be cured.

Name, Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

This form must be signed by an authorized executive or legal representative.

## APPENDIX A-5: VENDOR RESPONSIBILITY QUESTIONNAIRE INSTRUCTIONS

A contracting agency is required to conduct a review of a prospective contractor (and each subcontractor whose anticipated fees for the project are estimated to be over \$100,000) to provide reasonable assurances that the vendor is responsible. ILS recommends that vendors file the required Vendor Responsibility Questionnaire online via the New York State VendRep System. To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at [http://www.osc.state.ny.us/vendrep/vendor\\_index.htm](http://www.osc.state.ny.us/vendrep/vendor_index.htm) or go directly to the VendRep System online at <https://portal.osc.state.ny.us/wps/portal>.

Vendors must provide their New York State Vendor Identification Number when enrolling. To request assignment of a Vendor ID or for VendRep System assistance, contact the Office of the State Comptroller's Help Desk at 866-370-4672 or 518-408-4672 or by email at [ciohelpdesk@osc.state.ny.us](mailto:ciohelpdesk@osc.state.ny.us).

Vendors opting to complete and submit a paper questionnaire can obtain the appropriate questionnaire from the VendRep website <http://www.osc.state.ny.us/vendrep/> or may contact ILS or the Office of the State Comptroller's Help Desk for a copy of the paper form.

This questionnaire is designed to provide information to assist a contracting agency in assessing a vendor's responsibility prior to entering into a contract with the vendor. Vendor responsibility is determined by a review of each bidder or Proposer's authorization to do business in New York, business integrity, financial and organizational capacity, and performance history.

To enroll in and use the New York State VendRep System, see the VendRep System Instructions available at [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep) or go directly to the VendRep System online at <https://portal.osc.state.ny.us>. For direct VendRep System user assistance, the OSC Help Desk may be reached at 866-370-4672 or 518-408-4672 or by email at [helpdesk@osc.state.ny.us](mailto:helpdesk@osc.state.ny.us).

Contractors (and subcontractors) must answer every question in the questionnaire and where appropriate additional information may be required for the questionnaire to be complete and accurate. The completed questionnaire and responses will become part of the procurement record.

It is imperative that the person completing the vendor responsibility questionnaire be knowledgeable about the proposing contractor's business and operations as the questionnaire information must be attested to by an owner or officer of the vendor.

## APPENDIX A-6: PROCUREMENT LOBBYING RESTRICTIONS

Pursuant to State Finance Law §§139-j and 139-k, certain restrictions are placed on contact with state agencies during the procurement process. The term “Contact” is defined by statute and refers to those oral, written or electronic communications that a reasonable person would infer are attempts to influence the governmental procurement. In addition to obtaining the required identifying information, the state agency must inquire and record whether the person or organization that made the contact was the Offerer or was retained, employed or designated on behalf of the Offerer to appear before or contact the Governmental Entity.

The “Restricted Period” is the period of time commencing with the earliest date of written notice, advertisement or solicitation of a request for proposal, invitation for bids, or solicitation of proposals, or any other method for soliciting a response from Offerers intending to result in a Procurement Contract with a State agency and, ending with the final contract award and approval by, where applicable, the Office of the State Comptroller.

New York State employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4 year period; the Offerer is debarred from obtaining governmental procurement contracts. Further information about these requirements can be found at:  
<http://ogs.ny.gov/aboutOgs/regulations/defaultAdvisoryCouncil.asp>.

**Any Bidder responding to the solicitation must complete the form found below and submit it to the State agency.**

Questions regarding this form may be directed to the Designated Contacts for this solicitation:

|                      |                 |
|----------------------|-----------------|
| Contracts Officer:   | Karen Jackuback |
| Additional Contacts: | Joe Wierschem   |

## PROCUREMENT LOBBYING FORM

1. Offerer/Bidder certifies that it understands and agrees to comply with the procedures of the NYS Office of Indigent Legal Services relative to permissible contacts as required by State Finance Law Section 139-j (3) and Section 139-j (6) (b).

2. **CONTRACTOR DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS**  
Pursuant to Procurement Lobbying Law (SFL §139-j)

- (a) Has any Governmental Entity made a finding of non-responsibility regarding the individual or entity seeking to enter into the Procurement Contract in the previous four years?  
 Yes       No

If yes, please answer the following question:

- (b) Was the basis for the finding of non-responsibility due to a violation of State Finance Law §139-j?  
 Yes       No

If "Yes" was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a governmental entity?

- Yes       No

If "Yes", please provide details regarding the finding of non-responsibility:

Governmental Entity: \_\_\_\_\_

Date of Finding of Non-Responsibility: \_\_\_\_\_

Basis of Finding of Non-Responsibility (attach additional sheets as necessary)  
\_\_\_\_\_  
\_\_\_\_\_

3. Has any governmental entity terminated or withheld a procurement contract with the above-named individual or entity due to the intentional provision of false or incomplete information?  
 Yes       No

If yes, provide details:

Governmental Entity: \_\_\_\_\_

Date of Termination or Withholding of Contract: \_\_\_\_\_

Basis of Termination or Withholding: (add additional pages if necessary)  
\_\_\_\_\_  
\_\_\_\_\_

4. Offerer/Bidder certifies that all information provided to ILS, with respect to State Finance Law Section 139-k is complete, true and accurate.

Name of Offerer's Bidder/Company: \_\_\_\_\_

Offerer's Business Address: \_\_\_\_\_

Offerer's signature: \_\_\_\_\_ Date: \_\_\_\_\_

*I understand that my signature represents that I am signing  
and responding to all certifications listed above*

Print Name: \_\_\_\_\_

Title of Person signing this form: \_\_\_\_\_

## APPENDIX A-7: IRAN DIVESTMENT ACT CERTIFICATION

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. Under the Act, the Commissioner of the Office of General Services (OGS) will be developing a list (prohibited entities list) of “persons” who are engaged in “investment activities in Iran” (both are defined terms in the law). Pursuant to SFL § 165-a(3)(b), the initial list is expected to be issued no later than 120 days after the Act’s effective date, at which time it will be posted on the OGS website.

In accordance with the Iran Divestment Act, the Contractor/Bidder certifies that if it engages in investment activities in Iran, it does not provide goods or services of twenty million dollars (\$20,000,000) or more in the energy sector of Iran or is not a financial institution that extends twenty million dollars (\$20,000,000) or more in credit for a minimum of 45 days to a person for purposes of providing goods or services in the energy sector of Iran.

By entering into a Contract resulting from this RFP, Contractor (or any assignee) certifies that once the prohibited entities list is posted on the OGS website, it will not utilize on such Contract any subcontractor that is identified on the prohibited entities list.

Additionally, Contractor agrees that after the list is posted on the OGS website, should it seek to renew or extend the Contract, it will be required to certify at the time the Contract is renewed or extended that it is not included on the prohibited entities list. Contractor also agrees that any proposed Assignee of the Contract will be required to certify that it is not on the prohibited entities list before the STATE may approve a request for Assignment of Contract

During the term of the Contract, should the STATE receive information that a person is in violation of the above-referenced certification the STATE will offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the STATE shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The STATE reserves the right to reject any request for assignment for an entity that appears on the prohibited entities list prior to the award of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the prohibited entities list after contract award.

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_

**APPENDIX A-8: PARTICIPATION BY MINORITY GROUP MEMBERS AND  
WOMEN WITH RESPECT TO STATE CONTRACTS:  
REQUIREMENTS AND PROCEDURES**

**I. General Provisions**

- A. The Office of Indigent Legal Services is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 (“MWBE Regulations”) for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The contractor to the subject contract (the “Contractor” and the “Contract,” respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the New York State Office of Indigent Legal Services (the “ILS”), to fully comply and cooperate with the ILS in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for certified minority and women-owned business enterprises (“MWBEs”). The Contractor’s demonstration of “good faith efforts” pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable federal, state or local laws.
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, or enforcement proceedings as allowed by the Contract.

**II. Contract Goals**

- A. Pursuant to 5 NYCRR Section 142.2, ILS has determined that MWBE Contract Goals are not practical, feasible or appropriate for the services required under this RFP. As such, there are no MWBE subcontracting goals for this procurement.

**III. Equal Employment Opportunity (EEO)**

- A. The Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated thereunder by the Division of Minority and Women’s Business Development of the New York State Department of Economic Development (the “DMWBD”). If any of these terms or provisions conflict with



applicable law or regulations, such laws and regulations shall supersede these requirements.

B. The Contractor shall comply with the following provisions of Article 15-A:

1. Each contractor and subcontractor performing work on the Contract shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
2. The Contractor shall submit an EEO policy statement to the ILS within seventy two (72) hours after the date of the notice by ILS to award the Contract to the Contractor.
3. If the Contractor or Subcontractor does not have an existing EEO policy statement, the ILS may provide the Contractor or Subcontractor a model statement (see Minority and Women Owned Business Enterprises Equal Opportunity Policy Statement on page 51).
4. The Contractor's EEO policy statement shall include the following language:
  - a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
  - b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
  - c. The Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
  - d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each Subcontractor as to work in connection with the Contract.

C. Attachment A-8.1 - Staffing Plan

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. The Contractor shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

D. Attachment A-8.2 - Workforce Employment Utilization Report ("Workforce Report")

1. The Contractor shall submit a Workforce Report, and shall require each of its Subcontractors to submit a Workforce Report, in such format as shall be required by ILS on a quarterly basis during the term of the contract.
2. Separate forms shall be completed by Contractor and any Subcontractor.
3. In limited instances, the Contractor may not be able to separate out the workforce utilized in the performance of the Contract from the Contractor's and/or Subcontractor's total workforce. When a separation can be made, the Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from the Contractor's and/or Subcontractor's total workforce, the Contractor shall submit the Workforce Report and indicate that the information provided is the Contractor's total workforce during the subject time frame, not limited to work specifically under the contract.

E. The Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and Subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

**MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES – EQUAL  
EMPLOYMENT OPPORTUNITY POLICY STATEMENT**

**M/WBE AND EEO POLICY STATEMENT**

I, \_\_\_\_\_, the (awardee/contractor) \_\_\_\_\_ agree to adopt the following policies with respect to the project being developed or services rendered at \_\_\_\_\_

**M/WBE**

**EEO**

This organization will and will cause its contractors and subcontractors to take good faith actions to achieve the M/WBE contract participations goals set by the State for that area in which the State-funded project is located, by taking the following steps:

- (1) Actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations.
- (2) Request a list of State-certified M/WBEs from AGENCY and solicit bids from them directly.
- (3) Ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs.
- (4) Where feasible, divide the work into smaller portions to enhanced participations by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation.
- (5) Document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. The Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals.
- (6) Ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

(a) This organization will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on state contracts.

(b) This organization shall state in all solicitation or advertisements for employees that in the performance of the State contract all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex disability or marital status.

(c) At the request of the contracting agency, this organization shall request each employment agency, labor union, or authorized representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of this organization's obligations herein.

(d) The Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) This organization will include the provisions of sections (a) through (d) of this agreement in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the State contract.

Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 2 \_\_\_\_\_

By \_\_\_\_\_

Print: \_\_\_\_\_ Title: \_\_\_\_\_

**ATTACHMENT A-8.1: STAFFING PLAN**

| <b>INSTRUCTIONS: All Proposers submitting responses to this procurement must complete and submit this Staffing Plan Form as part of their proposal. Proposers should include only the staff that will provide services under this procurement.</b> |       |          |            |       |   |       |   |          |   |       |   |                                    |   |          |                            |         |   |
|--|-------|----------|------------|-------|---|-------|---|----------|---|-------|---|------------------------------------|---|----------|----------------------------|---------|---|
| <b>Proposer Name:</b>  |       |          |            |       |   |       |   |          |   |       |   | <b>Federal Identification No.:</b> |   |          |                            |         |   |
| <b>Address:</b>  |       |          |            |       |   |       |   |          |   |       |   | <b>Procurement No.:</b>            |   |          |                            |         |   |
| <b>City, State, Zip Code:</b>  |       |          |            |       |   |       |   |          |   |       |   |                                    |   |          |                            |         |   |
| <b>Description of Work:</b>  |       |          |            |       |   |       |   |          |   |       |   |                                    |   |          |                            |         |   |
| <b>Enter the total number of incumbents by race, sex, and ethnic group status in each of the EEO – Job Categories identified. See below for information regarding race/ethnicity identification and protected class group members.</b>             |       |          |            |       |   |       |   |          |   |       |   |                                    |   |          |                            |         |   |
| EEO – JOB CATEGORY   | TOTAL | MALE (M) | FEMALE (F) | WHITE |   | BLACK |   | HISPANIC |   | ASIAN |   | NATIVE AMERICA                     |   | DISABLED |                            | VETERAN |   |
|  |       |          |            | M     | F | M     | F | M        | F | M     | F | M                                  | F | M        | F                          | M       | F |
| Officials/Administrators   |       |          |            |       |   |       |   |          |   |       |   |                                    |   |          |                            |         |   |
| Professionals  |       |          |            |       |   |       |   |          |   |       |   |                                    |   |          |                            |         |   |
| Technicians  |       |          |            |       |   |       |   |          |   |       |   |                                    |   |          |                            |         |   |
| Sales Workers  |       |          |            |       |   |       |   |          |   |       |   |                                    |   |          |                            |         |   |
| Office/Clerical  |       |          |            |       |   |       |   |          |   |       |   |                                    |   |          |                            |         |   |
| Craft Workers  |       |          |            |       |   |       |   |          |   |       |   |                                    |   |          |                            |         |   |
| Laborers   |       |          |            |       |   |       |   |          |   |       |   |                                    |   |          |                            |         |   |
| Service Workers  |       |          |            |       |   |       |   |          |   |       |   |                                    |   |          |                            |         |   |
| <b>PREPARED BY (Signature)</b> _____   |       |          |            |       |   |       |   |          |   |       |   | <b>Date</b> _____                  |   |          |                            |         |   |
| <b>PRINTED OR TYPED NAME AND TITLE OF PREPARER</b> _____   |       |          |            |       |   |       |   |          |   |       |   | <b>TELEPHONE NO.</b> _____         |   |          | <b>EMAIL ADDRESS</b> _____ |         |   |

**CLASS DEFINITIONS**

**Hispanic** – All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

**American Indian or Alaskan Native** – All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

**Vietnam Era Veteran** – A veteran who served at any time between and including January 1, 1963 and May 7, 1975.

**Black** (Not of Hispanic origin) – All persons having origins in any of the Black racial groups of Africa.

**Asian or Pacific Islander** – All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, and Samoa.

**Disabled Individual** – Any person having a physical or mental impairment that substantially limits one or more major life activity, has a record of such an impairment; or is regarded as having such an impairment.

## **Instructions for Submitting the Workforce Utilization Report**

The Workforce Utilization Report (“Report”) is to be submitted on a monthly basis for construction contracts, and a quarterly basis for all other contracts, during the life of the contract to report the actual workforce utilized in the performance of the contract broken down by job title. When the workforce utilized in the performance of the contract can be separated out from the contractor’s and/or subcontractor’s total workforce, the contractor and/or subcontractor shall submit a Report of the workforce utilized on the contract. When the workforce to be utilized on the contract cannot be separated out from the contractor’s and/or subcontractor’s total workforce, information on the contractor’s and/or subcontractor’s total workforce shall be included in the Report.

Reports are to be submitted electronically, using the provided Report worksheet, to ILS within ten (10) days of the end of each month or quarter, whichever is applicable.

## **Instructions for Completing the Workforce Utilization Report**

1. Check off the appropriate box to indicate if the entity completing the Report is the contractor or a subcontractor.
2. Enter the number of the contract that the Report applies to along with the name and address of the contractor or subcontractor for which the Report has been prepared.
3. Check off the box that corresponds to the applicable quarterly or monthly reporting period for this Report.
4. Check off the appropriate box to indicate if the workforce being reported is just for the contract or the contractor’s or subcontractor’s total workforce.
5. Verify that job titles are provided under the column titled “SOC Job Title” for each employee whose work will be reflected on the Report. If a necessary job title is not included, please add the corresponding job category, title and corresponding job code to the “EEO 1 Job Categories” “SOC Job Title” and “SOC Job Code” columns from the list of job categories, SOC titles, and SOC codes reflected on the attached Classification Guide.
6. In the first group of boxes, identify the number of hours worked by persons identifying with each racial/ethnic category by gender for each job title in the SOC Job Title column.
7. In the second group of boxes, identify the number of persons identifying with each racial/ethnic category by gender for each job title in the SOC Job Title column.
8. Enter the name and title for the person completing the form, enter the date upon which the Report was completed, and check the box accepting the name entered into the Report as the digital signature of the preparer.

## **Race/Ethnic Identification**

Race/ethnic designations do not denote scientific definitions of anthropological origins. For the purposes of this Report, an employee must be included in the group to which he or she appears to belong, identifies with, or is regarded in the community as belonging. However, no person should be counted in more than one race/ethnic group. The race/ethnic categories for this Report are:

- **WHITE** (Not of Hispanic origin) All persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
- **BLACK/AFRICAN AMERICAN** a person, not of Hispanic origin, who has origins in any of the black racial groups of the original peoples of Africa.
- **HISPANIC/LATINO** a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.
- **ASIAN, NATIVE HAWAIIAN OR OTHER PACIFIC ISLANDER** a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- **NATIVE AMERICAN/ALASKAN NATIVE** a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

## Resources

If you have questions regarding these requirements, are unsure of the appropriate job titles to include in your Report, or otherwise require assistance in preparing or submitting the Report, please contact Karen Jackuback, [Karen.Jackuback@ils.ny.gov](mailto:Karen.Jackuback@ils.ny.gov).

# ATTACHMENT A-8.2 WORKFORCE UTILIZATION REPORT

NYS OFFICE OF INDIGENT LEGAL SERVICES

Reporting Entity

Contractor       Subcontractor

Contractor Name: \_\_\_\_\_

Contractor Address: \_\_\_\_\_

Contract Number: \_\_\_\_\_

Reporting Period - Select One

|  |  |                                    |
|--|--|------------------------------------|
| <input type="checkbox"/> January 1 - March 31  | <input type="checkbox"/> April 1 - June 30       |                                    |
| <input type="checkbox"/> July 1 - September 30 | <input type="checkbox"/> October 1 - December 31 |                                    |
| <input type="checkbox"/> January               | <input type="checkbox"/> February                | <input type="checkbox"/> March     |
| <input type="checkbox"/> April                 | <input type="checkbox"/> May                     | <input type="checkbox"/> June      |
| <input type="checkbox"/> July                  | <input type="checkbox"/> August                  | <input type="checkbox"/> September |
| <input type="checkbox"/> October               | <input type="checkbox"/> November                | <input type="checkbox"/> December  |

Workforce Identified in Report

|  |
|--|
| <input type="checkbox"/> Workforce Utilized in Performance of Contract |
| <input type="checkbox"/> Contractor/Subcontractor's Total Workforce    |

| EEO 1 Job Categories      | SOC Job Title | SOC Job Code | Hours worked by Race/Ethnic Identification During Reporting Period |        |                        |        |                 |        |   |        |                                |        |  |
|---------------------------|---------------|--------------|--|--------|------------------------|--------|-----------------|--------|---|--------|--------------------------------|--------|--|
|                           |               |              | White  |        | Black/African American |        | Hispanic/Latino |        | Asian/Native Hawaiian or Other Pacific Islander |        | Native American/Alaskan Native |        |  |
|                           |               |              | Male   | Female | Male                   | Female | Male            | Female | Male  | Female | Male                           | Female |  |
|                           |               |              |  |        |                        |        |                 |        |   |        |                                |        |  |
|                           |               |              |  |        |                        |        |                 |        |   |        |                                |        |  |
|                           |               |              |  |        |                        |        |                 |        |   |        |                                |        |  |
|                           |               |              |  |        |                        |        |                 |        |   |        |                                |        |  |
|                           |               |              |  |        |                        |        |                 |        |   |        |                                |        |  |
|                           |               |              |  |        |                        |        |                 |        |   |        |                                |        |  |
|                           |               |              |  |        |                        |        |                 |        |   |        |                                |        |  |
|                           |               |              |  |        |                        |        |                 |        |   |        |                                |        |  |
| <b>TOTAL HOURS WORKED</b> |               |              |  |        |                        |        |                 |        |   |        |                                |        |  |

| EEO 1 Job Categories   | SOC Job Title | SOC Job Code | Number of Employees by Race/Ethnic Identification During Reporting Period |        |                        |        |                 |        |   |        |                                |        |  |
|------------------------|---------------|--------------|---|--------|------------------------|--------|-----------------|--------|---|--------|--------------------------------|--------|--|
|                        |               |              | White   |        | Black/African American |        | Hispanic/Latino |        | Asian/Native Hawaiian or Other Pacific Islander |        | Native American/Alaskan Native |        |  |
|                        |               |              | Male  | Female | Male                   | Female | Male            | Female | Male  | Female | Male                           | Female |  |
|                        |               |              |   |        |                        |        |                 |        |   |        |                                |        |  |
|                        |               |              |   |        |                        |        |                 |        |   |        |                                |        |  |
|                        |               |              |   |        |                        |        |                 |        |   |        |                                |        |  |
|                        |               |              |   |        |                        |        |                 |        |   |        |                                |        |  |
|                        |               |              |   |        |                        |        |                 |        |   |        |                                |        |  |
|                        |               |              |   |        |                        |        |                 |        |   |        |                                |        |  |
|                        |               |              |   |        |                        |        |                 |        |   |        |                                |        |  |
|                        |               |              |   |        |                        |        |                 |        |   |        |                                |        |  |
| <b>TOTAL EMPLOYEES</b> |               |              |   |        |                        |        |                 |        |   |        |                                |        |  |

Preparer's Name: \_\_\_\_\_

Preparer's Title: \_\_\_\_\_

Date: \_\_\_\_\_

By checking this box, I certify that I personally completed this document and I adopt the name typed above as my electronic signature under the NYS Electronic Signatures and Records Act, with like legal force and effect as if I had physically signed the document.

## APPENDIX B: CONTRACTOR DISCLOSURE FORMS

Chapter 10 of the Laws of 2006 amended the Civil Service Law and the State Finance Law, relative to maintaining certain information concerning contract employees working under State agency service and consulting contracts. State agency consultant contracts are defined as “contracts entered into by a state agency for analysis, evaluation, research, training, data processing, computer programming, engineering, environmental health and mental health services, accounting, auditing, paralegal, legal, or similar services” (“covered consultant contract” or “covered consultant services”). The amendments also require that certain contract employee information be provided to the state agency awarding such contracts, the Office of the State Comptroller (OSC), Office of Indigent Legal Services and the Department of Civil Service (CS).

**To meet these new requirements, the selected Bidder agrees to complete:**

**Form A** – Contractor’s Planned Employment Form. The successful Contractor must complete this form upon notification of **selection by ILS**.

**Form B** – Contractor’s Annual Employment Report. Throughout the term of the Contract by May 15<sup>th</sup> of each year the Contractor agrees to report the following information to ILS. For each covered consultant contract in effect at any time between the preceding April 1<sup>st</sup> through March 31<sup>st</sup> fiscal year or for the period of time such contract was in effect during such prior State fiscal year Contractor reports the:

1. Total number of employees employed to provide the consultant services, by employment category.
2. Total number of hours worked by such employees.
3. Total compensation paid to all employees that performed consultant services under such Contract.\*

\*NOTE: The information to be reported is applicable only to those employees who are directly providing services or directly performing covered consultant services. However, such information shall also be provided relative to employees of Subcontractors who perform any part of the service contract or any part of the covered consultant contract. This information does not have to be collected and reported in circumstances where there is ancillary involvement of an employee in a clerical, support, organizational or other administrative capacity.

Contractor agrees to simultaneously report such information to the Department of Civil Service and the Office of the State Comptroller as designated below:

Department of Civil Service  
Alfred E. Smith State Office Building  
Albany, NY 12239

Office of the State Comptroller  
Bureau of Contracts  
110 State St., 11<sup>th</sup> Floor  
Albany, New York  
Attn: Consultant Reporting

Contractor is advised herein and understands that this information is available for public inspection and copying pursuant to §87 of the New York State Public Officers Law (Freedom of Information Law). In the event individual employee names or social security numbers are set forth on a document, the State agency making such disclosure is obligated to redact both the name and social security number prior to disclosure.

**Further information regarding the Contractor Consultant Law requirements and report Forms A and B is available in the Office of the State Comptroller’s Guide to Finance Operations, Chapter XI, Section 18.C: <http://www.osc.state.ny.us/agencies/guide/MyWebHelp>.**



## APPENDIX C: SALES TAX CERTIFICATION INSTRUCTIONS

The Tax Law was amended to require contractors with State agencies to certify to the Department of Taxation and Finance (DTF) that they, their affiliates, their subcontractors and the affiliates of their subcontractors have a valid certificate of authority to collect New York State and local sales and compensating use taxes. Tax Law Section 5-a applies to all contracts in excess of **\$100,000** for the purchase by a covered agency of commodities or services, awarded pursuant to Article XI of the State Finance Law.

The successful Contractor must complete Contractor Certification Form ST-220-CA upon notification of selection by ILS. This certification to the procuring agency, also made under penalty of perjury, states that the requisite (ST-220-TD) certification has been made to DTF and, to the best of the Contractor's knowledge, that the requisite (ST-220-TD) certification is correct and complete.

If Contractor has any questions regarding either forms, ST-220-CA or ST-220-TD, the **Office of the State Comptroller's Guide to Finance Operations, Chapter XI, Section 18.D** will provide background information and the forms (<http://www.osc.state.ny.us/agencies/guide/MyWebHelp>).

Contractors can refer to the Department of Taxation and Finance website, or the NYS Tax Law, Section 5-a, *Contractor Affiliate, Subcontractor, and Subcontractor Affiliate Sales and Compensating Use Tax Registration* for additional information and guidance.

## APPENDIX D: COMPLIANCE WITH NYS WORKERS' COMPENSATION LAW

Sections 57 and 220 of the New York State Workers' Compensation Law (WCL) provide that the ILS shall not enter into any contract unless proof of workers' compensation and disability benefits insurance coverage is produced. Prior to entering into a contract with ILS, successful Bidders and each subcontractor whose anticipated fees for the project are estimated to be over \$100,000 will be required to verify, on forms authorized by the New York State Workers' Compensation Board, that they are properly insured or are otherwise in compliance with the insurance provisions of the WCL. The forms used to demonstrate compliance with the WCL are indicated below.

**Please Note:** *The insurance provider of the successful contractor must submit this insurance verification information upon notification of selection by ILS. Any questions relating to either workers' compensation or disability benefits coverage should be directed to the State of New York Workers' Compensation Board, Bureau of Compliance at (518) 486-6307. Failure to comply with the requirements of this appendix will be grounds for disqualification of an otherwise successful bid.*

### **Workers' Compensation Requirements under WCL § 57:**

To comply with coverage provisions of the WCL, Contractor must:

- A) Be legally exempt from obtaining workers' compensation insurance coverage; OR
- B) Obtain such coverage from insurance carriers; OR
- C) Be a Board-approved self-insured employee or participate in an authorized group self-insurance plan.

To verify compliance with the above, ILS must receive one of the following properly executed Workers' Compensation Board forms from the Contractor, the Contractor's insurance carrier or the Workers' Compensation Board, depending on which form is appropriate:

- 1) CE-200. Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage. This form is completed electronically on the Board's website and printed out, [http://www.wcb.ny.gov/content/ebiz/wc\\_db\\_exemptions/wc\\_db\\_exemptions.isp](http://www.wcb.ny.gov/content/ebiz/wc_db_exemptions/wc_db_exemptions.isp); OR
- 2) C-105.2 – Certificate of Workers' Compensation Insurance. The Contractor's insurance carrier sends this form to ILS. PLEASE NOTE: The State Insurance Fund provides its own version of this form, the U-26.3; OR
- 3) SI-12 – Certificate of Workers' Compensation Self-Insurance. The Contractor contacts the Board's Self-Insurance Office at 518-402-0247 to obtain this form; OR
- 4) GSI-105.2 – Certificate of Participation in Worker's Compensation Group Self-Insurance. Contractor's Group Self-Insurance Administrator sends this form to ILS.

### **Disability Benefits Requirements under WCL § 220(8):**

To comply with the coverage provisions of the WCL regarding disability benefits, Contractor may:

- A) Be legally exempt from obtaining disability benefits insurance coverage; OR
- B) Obtain such coverage from insurance carriers; OR
- C) Be a Board-approved self-insured employer.

To verify compliance with the above, ILS must receive one of the following properly executed Workers' Compensation Board forms from the Contractor, the Contractor's insurance carrier or the Workers' Compensation Board, depending on which form is appropriate:

- 1) CE-200. Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage. This form is completed electronically on the Board's website and printed out, [http://www.wcb.ny.gov/content/ebiz/wc\\_db\\_exemptions/wc\\_db\\_exemptions.isp](http://www.wcb.ny.gov/content/ebiz/wc_db_exemptions/wc_db_exemptions.isp); OR
- 2) DB-120.1 – Certificate of Disability Benefits Insurance. The business's insurance carrier sends this form to ILS; OR
- 3) DB-155 – Certificate of Disability Benefits Self-Insurance. The Contractor contacts the Board's Self-Insurance Office at 518-402-0247 to obtain this form.

## APPENDIX E: COST PROPOSAL

Please submit two (2) originals and one (1) CD of the Cost Proposal, as part of your proposal, in a separately sealed package, to the addressee noted in Section 4.5 (Submission of a Complete Three-Part Proposal).

ILS anticipates a total budget of \$260,000 for the services described in RFP Section 3.1, and therefore will not award a contract in excess of that amount.

The Cost Proposal is an integral component of a Bidder's three-part submission. Bidders should take particular care to ensure the Cost Proposal is completed fully and in complete accordance with the instructions. Bidders are advised to submit questions about or requests for clarification of the Cost Proposal by **February 18, 2016**, the due date for submission of Bidder Inquiries.

Bidders are asked to provide a Cost Proposal itemizing all of the cost elements the Bidder will charge in providing the services described in Section 3.1. Bidders must provide a total project cost that includes all staff costs and expenses.

The Cost Proposal Form is divided into three tables and must be completed in its entirety according to the following instructions:

### A. Staff Costs

- The Staff Costs table should include the not-to-exceed hourly rate for each person performing the services described in Section 3.1 of the RFP. Please specify each person by name and their corresponding title.
- The Staff Costs table must include only one rate for each title. All fees must be presented as a fixed dollar amount. Do not leave blanks or enter a zero dollar amount for any rate.
- Hourly rates shall be inclusive of personal service costs (salary, fringe), and other overhead expenses related to the engagement, but not itemized in the Project Expenses table. Any and all personnel costs must be built into the hourly rates and not listed as a Project Expense.

### B. Project Expenses

- All Project Expenses for which the Bidder expects to be compensated in the provision of the services should be included in the Project Expenses table. Project Expenses may include, but are not limited to, travel, supplies and materials, printed resources, equipment (computer), computer software, postage, and all other expenses.
- For each Project Expense, the Bidder must identify the expense and its cost.

- All purchases for equipment included in the Project Expense table having a useful life of more than one year and an acquisition cost of \$1000 or more per unit will become the property of the State, and will be recouped by ILS after the project is complete.
- All Project Expenses will be added together to arrive at a total Project Expenses value.

C. Total Not-to-Exceed Project Cost

- The Staff Cost and the Project Expenses shall be carried over to the Total Not-to-Exceed Project Cost table. The two costs shall be added together to establish the Total Not-to-Exceed Project Cost.

If a Bidder's pricing model consists solely of staff hourly rates, then the Bidder only needs to complete the Staff Costs and Total Not-to-Exceed Project Cost tables. If a Bidder's pricing model consists of hourly staff rates and Project Expenses, then the Bidder must complete the Staff Cost, Project Expense, and Total Not-to-Exceed Project Cost tables.

The Cost Proposal Form should be signed by the individual who signs the proposal Bidder Information and Attestation page (an individual authorized to bind the bidding Bidder contractually).

Payments to the selected Bidder will only be made for actual hours worked, and will not exceed the hourly rates or Expense Costs contained in the proposal.

ILS will compensate the successful Contractor following submission of an approvable invoice, as further described in RFP Section 7.3.4: Compensation/Manner of Payment. Invoices should be submitted on a monthly basis, in the month following when services were performed. **A total of fifteen percent (15%) of the total amount billed shall be withheld and shall be paid to the Contractor upon successful completion of the final report.**

**APPENDIX E: COST PROPOSAL**

**Cost Proposal Form  
Caseload Standards Study**

**Bidder Name:** \_\_\_\_\_

**A. STAFF COSTS**

| <b>Name(s)</b>     | <b>Title(s)*</b> | <b>Estimated Hours</b> | <b>Hourly Rate</b>       | <b>Total Cost</b> |
|--------------------|------------------|------------------------|--------------------------|-------------------|
|                    | Project Leader   |                        |                          |                   |
|                    | Staff Member (1) |                        |                          |                   |
|                    | Staff Member (2) |                        |                          |                   |
|                    | Staff Member (3) |                        |                          |                   |
|                    | Staff Member (4) |                        |                          |                   |
| <b>TOTAL HOURS</b> |                  |                        | <b>TOTAL STAFF COSTS</b> |                   |

\*Bidder may add additional rows if staff exceeds five.

**B. PROJECT EXPENSES**

| <b>Project Expenses</b>       | <b>Cost Per Unit</b> | <b>Quantity</b> | <b>Total Cost</b> |
|-------------------------------|----------------------|-----------------|-------------------|
|                               |                      |                 |                   |
|                               |                      |                 |                   |
|                               |                      |                 |                   |
|                               |                      |                 |                   |
|                               |                      |                 |                   |
|                               |                      |                 |                   |
|                               |                      |                 |                   |
| <b>TOTAL PROJECT EXPENSES</b> |                      |                 |                   |

**APPENDIX E: COST PROPOSAL**

**Cost Proposal Form  
Caseload Standards Study**

**Bidder  
Name:** \_\_\_\_\_

**C. TOTAL NOT-TO-EXCEED PROJECT COST**

|   |                 |
|---|-----------------|
| <b>TOTAL STAFF COSTS</b>                    | <b>\$</b> _____ |
| <b>TOTAL PROJECT EXPENSES</b>               | <b>\$</b> _____ |
| <b>TOTAL NOT-TO-EXCEED<br/>PROJECT COST</b> | <b>\$</b> _____ |

\_\_\_\_\_  
**Authorized Signatory for the Bidder**

\_\_\_\_\_  
**Name (print or type)**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Date**

**APPENDIX F: PROPOSAL CHECKLIST  
CASELOAD STANDARDS STUDY RFP**

Bidder Name \_\_\_\_\_

Date \_\_\_\_\_

**Technical Proposal (2 originals, 4 hardcopies and 1 DVD/CD)**

- |  |     |       |    |       |
|--|-----|-------|----|-------|
| 1. Does the proposal contain 2 originals, 4 hardcopies and 1 DVD/CD of the Technical Proposal? | Yes | _____ | No | _____ |
| 2. Does the proposal contain all components of the Technical Proposal, as stated below?        | Yes | _____ | No | _____ |
| A. <b>Table of Contents</b>  | Yes | _____ | No | _____ |
| B. <b>Executive Summary</b>  | Yes | _____ | No | _____ |
| D. <b>Proposed Project Approach and Study Plan</b>   | Yes | _____ | No | _____ |
| • Narrative describing the project approach including:   | Yes | _____ | No | _____ |
| ○ Preliminary work plan including an explanation of the methodology to be followed             | Yes | _____ | No | _____ |
| ○ Study plan describing the technical approach including tasks and projected timetable         | Yes | _____ | No | _____ |
| C. <b>Bidder Experience and Qualifications</b>   | Yes | _____ | No | _____ |
| • Bidder Overview  | Yes | _____ | No | _____ |
| • Bidder Experience  | Yes | _____ | No | _____ |
| D. <b>Staff Experience and Qualifications</b>  | Yes | _____ | No | _____ |
| • Staffing Plan  | Yes | _____ | No | _____ |
| • Organizational Chart   | Yes | _____ | No | _____ |
| • Staff Resumes  | Yes | _____ | No | _____ |
| 3. Excluding staff resumes is the Technical Proposal 25 pages or less?                         | Yes | _____ | No | _____ |

**Cost Proposal (2 originals and 1 DVD/CD)**

- |   |     |       |    |       |
|---|-----|-------|----|-------|
| 1. Does the proposal contain 2 originals and 1 DVD/CD of the Cost Proposal? | Yes | _____ | No | _____ |
| 2. Did the Bidder complete and sign Appendix E: Cost Proposal Form?         | Yes | _____ | No | _____ |

**Administrative Proposal (2 originals and 1 DVD/CD)**

- |   |     |       |    |       |
|---|-----|-------|----|-------|
| 1. Does the proposal contain 2 originals and 1 DVD/CD of the Administrative Proposal?   | Yes | _____ | No | _____ |
| 2. Did the Bidder submit executed copies of:  | Yes | _____ | No | _____ |
| • Appendix A-2: Bidder Information and Attestation  | Yes | _____ | No | _____ |
| • Appendix A-3: Non-Collusive Bidding Certification   | Yes | _____ | No | _____ |
| • Appendix A-4: Assurances of No Conflict of Interest or Detrimental Effect   | Yes | _____ | No | _____ |
| • Appendix A-5: Vendor Responsibility Questionnaire (hardcopy or submitted electronically in the State's VendRep system) for the Bidder and any subcontractor anticipated to receive a subcontract in excess of \$100,000 | Yes | _____ | No | _____ |

- Appendix A-6: Procurement Lobbying Form
- Appendix A-7: Iran Divestment Act Certification
- Appendix A-8: Staffing Plan Form
- Disclosure of pending or prior lawsuits
- Freedom of Information Law Redaction Request

|     |       |    |       |
|-----|-------|----|-------|
| Yes | _____ | No | _____ |
| Yes | _____ | No | _____ |
| Yes | _____ | No | _____ |
| Yes | _____ | No | _____ |
| Yes | _____ | No | _____ |