

New York State Department of Taxation and Finance
Request for Proposals (RFP) 14-05
Collection Services for Delinquent Tax Debt



**STATE OF NEW YORK
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Amendment #3

For Request for Proposals (RFP) 14-05 COLLECTION SERVICES FOR DELINQUENT TAX DEBT

To All Potential Bidders:

The Department is also issuing Amendment #3 to:

- Amend Qualifying Requirement B. Collection Experience;
- Amend Technical Requirement B. Litigation Services Requirements;
- Amend Technical Requirement D. Bidder Experience and Reference Requirement;
- Amend Attachment B. Collection Experience Response Form;
- Amend Attachment H. Litigation Plan Response Form;
- Amend Attachment M. Soft Collection Experience and Reference Response Form; and
- Amend Attachment N. Litigation Experience and Reference Response Form.

Replacement pages are attached after Question Responses. All deletions are shown as shaded, strike-through text, all additions are made in blue text.

All other requirements and conditions remain as indicated in the RFP.

III. Qualifying Requirements

Only qualified entities may submit a proposal in response to this RFP. A qualified entity is defined as one that meets **all of the following qualifying requirements**. Entities not meeting these qualifying requirements should not submit a proposal.

A. Insurance

At the time of proposal submission, the Bidder's company and all staff must be insured against financial losses resulting from their actions.

Response Requirement

With **Attachment A, Qualifying Insurance Response Form**, the Bidder must provide its current insurance information and must attach a copy of its current certificate(s) of insurance including a description of each type of coverage, the amount of coverage, and the effective date of the coverage.

B. Collection Experience

1. The Bidder must have a minimum of five (5) years of ~~experience in Soft Collection Services~~ **collecting debts on behalf of clients** since January 1, 2010;

AND

The Bidder or its Subcontractor(s) must have ~~Litigation Services~~ **litigation** experience in **collection law and post judgment enforcement proceedings**.

Furthermore, the Department recognizes that new entities may form for the purpose of submitting a bid and that the new entity (which shall be considered "the Bidder") may consist of existing entities. In such case, at least one such existing entity must have a minimum of five (5) years of ~~experience in Soft Collection Services~~ **collecting debts on behalf of clients** since January 1, 2010 **AND** at least one such existing entity or its Subcontractor(s) must have **litigation** experience in **collection law and post judgment enforcement proceedings** ~~performing Litigation Services~~.

A Bidder without the above experience in either ~~Soft Collection Services on behalf of clients~~ or ~~Litigation Services~~ shall not be qualified to bid. If a Bidder intends to utilize sub-contracted law firms in foreign states, each law firm must have ~~Litigation Services~~ **litigation** experience in **collection law and post judgment enforcement proceedings**.

2. The Bidder and any Subcontractor(s) must collectively have Multi-State collection experience, including taking judgments obtained in one state and filing them in a foreign state pursuant to the Uniform Enforcement of Foreign Judgments Act ("UEFJA") or some

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other methodology and success in defending due process and/or other challenges brought by affected judgment debtors.

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3. The Bidder must have experience with a portfolio of collection Cases containing a minimum volume of 10,000 debtors annually from one client since January 1, 2010.

Response Requirement

The Bidder must complete **Attachment B, Debt Collection Experience Response Form**, with information regarding its debt collection and litigation experience.

C. Electronic Data File Exchange

The Bidder must have the capacity to engage in electronic data file exchange with the Department, and must use an electronic data exchange protocol acceptable to the Department as described in **Section V. C. 1, Communications Environment**. Data file exchange processes that are specifically unacceptable are: magnetic tapes, unencrypted internet email, paper, CD, floppy Disc, removable drives, and analog or digital dial up, Value Added Network's (VAN) or DSL connections.

Response Requirement

Response to this requirement is in conjunction with the response to the requirements for **Sections III.C., Electronic Data File Exchange, and V.C.1, Communications Environment**. The Bidder must complete **Attachment I, Electronic Data File Exchange Response Form** with the applicable information.

D. Financial Stability

The Bidder must be a financially stable entity, such that it may initiate and perform its obligations through the duration of the Contract.

The Department will conduct an evaluation of the Bidder's financial stability which will include, but not be limited to, a review of the Bidder's equity position, liquidity, profitability trends and prospects for financial growth. The financial stability evaluation will also include a business background review of the entity's officers and management team, its organizational structure and the financial operating relationship between the business units and divisions.

As a condition of the resulting Contract, the Contractor must continue to evidence financial stability. The on-going financial stability of the Contractor may be evaluated based upon criteria similar to that used in the evaluation process. If the Department elects to evaluate financial stability, annual financial statements prepared by an accountant in accordance with Generally Accepted Accounting Principles (GAAP) will be required to be submitted for review to the Department within 90 days of the fiscal year end. Any material change in ownership of the Contractor, or material financial change of the Contractor, will require a reevaluation of the Contract in its entirety by the Department.

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a. Quality Assurance **(M)**

The Bidder must have a process in place to provide quality assurance of accounts placed. The process should include, but not be limited to, handling/review of complaints, review of collector calls and collector training. The Department will evaluate the Bidder's current processes.

b. Contract Administration/Facilities **(D)**

It is desirable that Bidder utilize only one contract facility for Soft Collection Services throughout the term of the Contract.

c. Professional Memberships or Associations **(D)**

It is desirable that the Bidder be a member of at least one professional debt collection association (e.g., ACA International).

Response Requirement

Using **Attachment G, Soft Collection Services Response Form**, the Bidder must provide the information regarding its Soft Collection **Services Experience** as outlined on the attachment.

B. Litigation Services Requirements

1. Litigation Plan (M)

- a. The Bidder must have an understanding of the needs of the Department and identify those needs in a comprehensive **collection litigation** plan.

The **collection litigation** plan **must** include an overview and time line that describes the collection methodology **and litigation strategy** that will be used by the Bidder to collect the unpaid tax debt and **should** address the following issues:

- The criteria and the rationale the Bidder will use to determine which New York warrants will be filed in states where a Tax Debtor and/or assets are located pursuant to the Uniform Enforcement of Foreign Judgments Act ("UEFJA"), or some other methodology.
- The Bidder's litigation strategy if a Tax Debtor challenges the filing of a New York Tax Warrant against a Tax Debtor in the foreign state where the Tax Debtor and/or assets are located.
- The judgment enforcement steps that will be taken to attempt to collect the unpaid tax debt.
- The criteria the Bidder will use to identify which referred Cases are non-productive.

D. Bidder Experience and Reference Requirements

The Department will contact client references provided to ensure the Bidder can undertake and complete a project of the scope, size and complexity as set forth in this RFP. Reference contacts provided for ~~Soft Collection Service~~ **soft collections** must be familiar with the ~~Soft Collection Service~~ **soft collections** provided by the Bidder, references provided for ~~Litigation Services~~ **litigation experience** must be familiar with the ~~Litigation Services~~ **work** provided by the Bidder and reference contacts provided for IT systems must be familiar with the client's computer application system and the process for exchanging data.

The Bidder shall be solely responsible for providing contact names, phone numbers and email addresses for client references that are readily available to be contacted by the Department and capable of responding to performance questions. If the Department is unable to contact or obtain information from any reference, the Bidder will be provided one opportunity, with a deadline, to assist in obtaining cooperation from those clients who have not responded.

1. Soft Collection ~~Services~~ Experience and References (M/D)

The Bidder must have prior experience in ~~Soft Collection Service~~ **soft collections** and must have had a minimum of one contract with an average annual placement of 10,000 debtors, or more, over the life of the contract (M).

Bidders who meet these criteria have met minimum requirements for Bidder experience.

It is desirable that the Bidder have prior experience in the collection of debt similar in nature, size, scope and complexity as set forth in this RFP. (D) The Department is particularly interested in and will evaluate the Bidder's prior experience with:

- B. Tax debt collection for Federal and/or State entities. Special weight will be given to collection for:
 - i. Personal Income, Corporation, Sales and/or Withholding taxes;
 - ii. Tax debt collection for contracts with an average annual placement of 10,000 debtors or more;
- C. Non-tax debt collection for Federal and state government entities. Special weight will be given for contracts with an average annual placement of 10,000 debtors or more.
- D. The Department will also evaluate, but will give less weight to, other debt collection contracts.

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- E. The Department will evaluate the number of years of Federal and/or state tax collection experience for the proposed collection manager.

Response Requirement

On **Attachment M, Soft Collection Services—Experience and Reference Response Form**, provide information for up to three (3) contracts to be used to evaluate the Bidders experience. Reference information must be provided for an individual that is familiar with the ~~Soft Collection Service~~ **soft collections** (Operations) provided by the Bidder as well as an individual familiar with the client’s computer application system and the process for exchanging data (Systems).

The Bidder should provide information for contracts that best represent the Bidder’s ability to undertake a project of the scope, size and complexity as set forth in this RFP. The Department will contact all client references to evaluate the Bidder’s past performance related to ~~Soft Collection Service~~ **soft collections**. If the Department is unable to contact or obtain information from any reference; the Bidder will be provided **one** opportunity, with a deadline, to assist in obtaining cooperation from those clients who have not responded.

Note: The qualifying contract(s) submitted to support the ~~Soft Collection Service~~ **soft collections** Requirement in response to **Section III. B., Collection Experience**, must be included in response to this section. ***The Bidder should select contracts that best meet the criteria to be evaluated.***

The Bidder must have satisfactory references for these contracts for technical scoring.

2. ~~Litigation Services—Experience and References (M)~~

The Bidder, or its Subcontractor, must have ~~prior experience providing~~ **litigation experience in collection law and post judgment enforcement proceedings** ~~Litigation Services as defined in this RFP.~~

- a. The Department is particularly interested in and will evaluate if the Bidder and/or its Subcontractor has a law office in any of the following five states: New Jersey, Florida, California, Pennsylvania, and Connecticut.
- b. The Department will also evaluate if the Bidder and/or its Subcontractor(s) has collection attorney(s) licensed to practice in any of the following five (5) states: New Jersey, Florida, California, Pennsylvania, and Connecticut. The Bidder should include the number of years each attorney has been licensed in the particular state.
- c. The Bidder must indicate if the collection **methodology and litigation** strategy proposed to be utilized by the Bidder in **Section V. B. 1, Litigation Plan**, was

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successfully employed by the Bidder in the past and, if so, provide evidence in support including:

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- i. Public and/or private sector collection cases in which the Bidder successfully defeated a judgment debtor's challenge to the filing of a foreign judgment in the state where the judgment debtor resides and/or his or her assets are located.
- ii. Data describing types of judgment debt collected (public vs. private sector) and collection outcomes on prior cases.

Response Requirement

The Bidder must complete **Attachment N, Litigation Services Experience and Reference Response Form**, with information for up to three (3) references to enable the Department to evaluate the Bidder's past performance of on ~~Litigation~~ **litigation cases** ~~Services~~.

Note: The qualifying reference(s) submitted to support the ~~Litigation~~ **litigation experience** ~~Services~~ Requirement in response to **Section III. B., Collection Experience** must be included in response to this section. ***The Bidder should select references that best meet the criteria to be evaluated.***

The Department will contact all references to evaluate the Bidder's past performance ~~related to Litigation Services~~. If the Department is unable to contact or obtain information from any reference, the Bidder will be provided **one** opportunity, with a deadline, to assist in obtaining cooperation from those who have not responded.

The Bidder must have satisfactory references for technical scoring.

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Attachment B – ~~Debt~~ Collection Experience Response Form

This form is for the ~~Debt~~ Collection Experience requirements as specified in **Section III. B., Collection Experience**

1. The Bidder must have a minimum of five (5) years of experience ~~in Soft Collection Services~~ **collecting debts on behalf of clients** since January 1, 2010;

AND

The Bidder or its Subcontractor(s) must have ~~Litigation Services~~ **litigation** experience **in collection law and post judgment enforcement proceedings**.

Furthermore, the Department recognizes that new entities may form for the purpose of submitting a bid and that the new entity (which shall be considered “the Bidder”) may consist of existing entities. In such case, at least one such existing entity must have a minimum of five (5) years of experience ~~in Soft Collection Services~~ **collecting debts on behalf of clients** since January 1, 2010 **AND** at least one such existing entity or its Subcontractor(s) must have **litigation** experience **in collection law and post judgment enforcement proceedings** ~~performing Litigation Services~~.

~~Soft Collection Services~~ **Collecting Debts**

Date the Bidder began ~~business of Soft Collection Services~~ **collecting debts** (including month and year):

Client Name: _____

Client Address: _____

Client Contact Name: _____

Client Contact Title: _____

Client Phone Number: _____ Client Fax Number: _____

Client E-mail Address: _____

Contract Start Date: _____ Contract End Date: _____

Work performed by a Subcontractor: yes no

Subcontractor Name: _____

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~~Litigation Services~~ **Litigation experience**

Date the Bidder began ~~business of Litigation Services~~ **collection and post judgment enforcement proceedings** (including month and year): _____

Client Name: _____

Client Address: _____

Client Contact Name: _____

Client Contact Title: _____

Client Phone Number: _____ Client Fax Number: _____

Client E-mail Address: _____

Contract Start Date: _____ Contract End Date: _____

Work performed by a Subcontractor: ___yes ___no

Subcontractor Name: _____

*Attach additional sheets as necessary to support the five year experience requirement in **collecting debts** ~~Soft Collection Services~~ as well as the experience requirement for ~~Litigation Services~~ **collection law and post judgment enforcement proceedings**, or in the case of a new entity that consists of existing entities.*

2. The Bidder and any Subcontractor(s) must collectively have Multi-State collection experience, including taking judgments obtained in one state and filing them in a foreign state pursuant to the Uniform Enforcement of Foreign Judgments Act (“UEFJA”) or some other methodology and success in defending due process and/or or other challenges brought by affected judgment debtors.

States in which the Bidder and any Subcontractor(s) collectively ~~has~~ **have** collection experience:

By signature below, the Bidder attests that they and their Subcontractor(s) collectively have:

- experience in taking judgments in one state and filing them in another state pursuant to UEFJA. or some other methodology; and
- success in defending due process or other challenges brought by affected judgment debtors.

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Bidder Name: _____

Authorized Representative: _____

Representative's Signature: _____

Date: _____

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3. The Bidder must have experience with a portfolio of collection ~~Cases~~ cases containing a minimum volume of 10,000 debtors annually, from one client, since January 1, 2010.

Provide the following information on the contract that meets this requirement:

Client Name: _____

Client Address: _____

Client Contact Name: _____

Client Phone Number: _____ Client Fax Number: _____

Client E-mail Address: _____

Number of ~~Cases~~ cases Placed Annually: _____

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Attachment H – Litigation Plan Response Form

This form is for the ~~Collection~~ Litigation Plan requirement as specified in **Section V. B.1, Litigation Plan**.

The Bidder must provide a narrative which addresses, at a minimum:

- a. An understanding of the needs of the Department and identify those needs in a comprehensive ~~collection~~ litigation plan.

The ~~collection~~ litigation plan **must** include an overview and time line that describes the collection methodology and litigation strategy that will be used by the Bidder to collect the unpaid tax debt and **should** address the following issues:

- The criteria and the rationale the Bidder will use to determine which New York warrants will be filed in states where a Tax Debtor and/or assets are located pursuant to the Uniform Enforcement of Foreign Judgments Act (“UEFJA”), or some other methodology.
 - The Bidder’s litigation strategy if a Tax Debtor challenges the filing of a New York Tax Warrant against a Tax Debtor in the foreign state where the Tax Debtor and/or assets are located.
 - The judgment enforcement steps that will be taken to attempt to collect the unpaid tax debt.
 - The criteria the Bidder will use to identify which referred Cases are non-productive.
- b. In addition to providing the Department with remote access to the Contractor’s Collection System, in real time, for all active, Recalled, and returned Cases assigned by the Department to the Contractor on a daily basis; the Bidder must also describe the timing and manner in which the Contractor will communicate with the Department on issues that may arise during the course of its Collection Efforts including:
 - Settlement offers made by a Tax Debtor
 - The Bankruptcy filing of a Tax Debtor
 - A dispute made by a Tax Debtor, including, but not limited to, a dispute regarding the amount the Department claims to be due and owing from the Tax Debtor.
 - c. The Bidder must attest that the Department will interact directly with Attorneys and Attorney staff regarding their Collection Efforts.

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Attachment M – Soft Collection Services—Experience and Reference Response Form

This Form is for the ~~Debt Collection~~ **soft collections** Experience in **Sections V. D. 1., Soft Collection Services Experience and References.**

Please provide information for up to three (3) contracts to be used to evaluate the Bidder's experience. Reference information must be provided for an individual that is familiar with the ~~Soft Collection Service~~ **soft collections** (Operations) provided by the Bidder as well as an individual familiar with the client's computer application system and the process for exchanging data (Systems).

Client Name: _____

Client Address : _____

Operations Contact Name: _____

Contact Title: _____

Contact Phone Number: _____

Contact Email Address: _____

Systems Contact Name: _____

Contact Title: _____

Contact Phone Number: _____

Contact Email Address: _____

1. Contract Information:

a) Contract Dates (Month/Year)

Begin Date _____ End Date _____

b) Date Contract Began Active Collection (Month/Year): _____

2. Type of Entity: Federal State Other

3. Average Annual **Volume of Debtors:** ~~Case Placement:~~ _____

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Attachment N – Litigation Services Experience and Reference Response Form

This Form is for the Litigation ~~Services~~ Experience and Reference requirement in **Section V. D. 2., Litigation ~~Services~~ Experience and References.**

Please provide information for up to three (3) references to enable the Department to evaluate the Bidder's past performance **on litigation cases** ~~of Litigation Services~~. Reference information must be provided for an individual that is familiar with Bidder's and/or Subcontractor's ~~Litigation Services~~ experience ~~on collection cases~~.

Reference Name: _____

Reference Address: _____

Reference Title: _____

Reference Phone Number: _____

Reference Email Address: _____

1. Check if the Bidder and/or its Subcontractor(s) have a law office(s) in any of the following states:

New Jersey Florida California Pennsylvania Connecticut

2. Does the Bidder and/or its Subcontractor(s) have a collection attorney licensed to practice in any of the above states?

YES NO

If yes, indicate the number of attorneys and the number of years each attorney has been licensed in the particular state:

New Jersey -

Number of attorneys: _____

Number of years each attorney has been licensed in New Jersey: _____