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**Request for Proposals**

**23-100**

**Program Administration and**

**Investment Management Services for the**

**New York State Secure Choice Savings Program**

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**Schedule of Events**

|  |  |
| --- | --- |
| Publication of RFP | Wednesday, May 31, 2023 |
| Deadline for Filing Offerer Understanding of, and Compliance with, Procurement Lobbying Guidelines | Wednesday, June 21, 2023 |
| Deadline for Submission of Bidder Questions |
| Response to Bidder Questions | Wednesday, July 12, 2023 |
| Proposals Due | Wednesday, August 2, 2023  By 2:00 PM ET |
| Notification of Intent to Award | Wednesday, September 20, 2023 |
| Anticipated Date of Contract Signature | Friday, October 20, 2023 |
| Anticipated Date of Contract Approval | Friday, December 1, 2023 |

**Preface**

## Procurement Lobbying – Offerer Understanding of, and Compliance with, Procurement Lobbying Guidelines

New York State Finance Law 139-j(6)(b) requires that New York State entities conducting a Government Procurement seek written affirmation from all Offerers as to the Offerer’s understanding of, and agreement to comply with, the State’s guidelines and procedures relating to permissible contacts during a Government Procurement. The State of New York, acting by and through the New York Secure Choice Savings Program Board (hereinafter, the “Board”), is the procuring entity issuing this RFP. The New York State Department of Taxation and Finance (“DTF” or “Department”), is compiling and publishing the RFP, under the Board’s direction, for the New York State Secure Choice Savings Program (the “Program”). Solely for administrative convenience, throughout the RFP and related documents, references to the “Board,” or the “State,” and/or “DTF” or “Department,” are references to the Board, or the State acting through the Board, or to DTF acting at the direction of the Board, for purposes of implementing and administering this statutorily-created Program. Information related to the Procurement Lobbying Law and guidelines for Offerers prepared by DTF can be found on DTF’s website at: <http://www.tax.ny.gov/about/procure>.

All inquiries concerning this solicitation must be addressed to one of the following designated contacts:

|  |
| --- |
| DESIGNATED CONTACTS FOR INQUIRIES AND SUBMISSIONS |
| NYS Department of Taxation and Finance  Bureau of Fiscal Services, Procurement Unit  Designated Contacts:  Matthew Brownell  Yafei Cao  Amber Alexander  RFP-related questions and inquiries must be submitted via electronic mail at [BFS.Contracts@tax.ny.gov](mailto:BFS.Contracts@tax.ny.gov) or via fax to 518-435-8413. **No other method of inquiries will be accepted.**  **Administrative issues pertaining to sending/receiving email through the designated mailbox may be reported to one of the designated contacts listed above at 518-530-4484.**  **Procurement Website:**  <https://www.tax.ny.gov/about/procure/current-bid-opportunities.htm> |

Contacting individuals other than the designated contacts listed above may result in disqualification of the Bidder’s Proposal. Please refer to the Procurement Lobbying Law and the guidelines posted on the Department’s procurement website at: <http://www.tax.ny.gov/about/procure>, and to the additional requirements set forth in **Section 6, *Administrative Requirements***.

Offerers are requested to sign and submit **Attachment 1, *Offerer Understanding of, and Compliance with, Procurement Lobbying Guideline*s** by the date and time specified in the Schedule of Events. This may be submitted in conjunction with Bidder questions.

## Proposal Questions/Inquiries

Prospective Bidders have one opportunity to submit written questions and requests for clarification regarding this Request for Proposals (RFP). All questions regarding this RFP must be submitted via email (preferred) or fax and be received by the dates specified in the Schedule of Events. Questions should reference the relevant page and section of the RFP and must be directed to the designated contacts identified herein.

Email: [bfs.contracts@tax.ny.gov](mailto:bfs.contracts@tax.ny.gov)

Fax: 518-435-8413

Questions submitted by Bidders should be in a word document in the following format:

| **#** | **RFP Section** | **RFP Page #** | **Bidder Name** | **Question** |
| --- | --- | --- | --- | --- |
| **1** |  |  |  |  |
| **2** |  |  |  |  |

All clarifications and exceptions, including those relating to the terms and conditions of the RFP, are to be resolved prior to the submission of a Proposal by utilizing the Question and Answer period. Also, during the Question and Answer period, Bidders should bring forward terms and conditions in the RFP that would prohibit a Bidder from bidding. The Bidder entering into an Agreement with the State is expected to comply with all material terms and conditions contained herein.

## RFP Amendments/Announcements

All amendments, clarifications, and any announcements related to this RFP will be posted on the Department’s Procurement website at: <http://www.tax.ny.gov/about/procure>.

It is the responsibility of the Bidder to check the website for any amendments, clarifications, or updates. All applicable amendment information must be incorporated into the Bidder’s Proposal. Failure to include this information in your Proposal may result in the Proposal being deemed non-responsive.

## Response to Bidder Questions and Requests for Clarification

The Department will provide a written response to all substantive questions and requests for clarification. Responses to Bidder questions and requests for clarifications will be posted on the Department’s Procurement website at: <http://www.tax.ny.gov/about/procure>.

## Submission of Proposals

The Bidder must submit their Proposal as instructed in **Section 7, *Proposal Content and Submission Requirements***. Proposals will be evaluated in accordance with the scoring criteria set forth in **Section 8.3,** ***Final Ranking, Contract Award, and Point Distribution***.

## Contract Signing

The Bidder must agree to begin negotiations with the State in earnest as soon as possible upon receipt of Notification of Intent to Award with a goal of signing a contract in an expeditious timeframe.

**Note:** The State is under no obligation to include in the final Agreement, or to negotiate from, any Bidder-supplied documents. The State reserves the right to require a Bidder to withdraw any and all such proposed terms or documents or parts thereof, as necessary.

## Contract Term

For Program Administration Services – The State will award one (1) Contract for Program Administration Services (“PA Services”), as set forth herein at **Section 2.1, *Program Administration Services******Requirements***. Entities proposed by the Bidder to provide a material part of the PA Services may be required by the State to be named parties to the Contract. The Bidder submitting a Proposal for PA Services shall be required to make its affirmation on **Attachment 4, *Bidder Attestation*** ***Response Form*** on behalf of itself and all proposed service providers. The Agreement will only be valid and effective to bind the parties thereto upon its approval by both the Attorney General (AG) and the Office of the State Comptroller (OSC). The initial term of the Agreement for PA Services will commence upon the date of such last approval by OSC and continue thereafter for a term of seven years.

For Investment Management Services – The State will award one (1) Contract for each chosen provider of Investment Management Services (“IM Services”), as set forth herein at **Section 2.2, *Investment Management Services Requirements*** and consistent with the IM Services Contractor’s Proposal. Each such Agreement will only be valid and effective to bind the parties thereto upon its approval by both the Attorney General (AG) and the Office of the State Comptroller (OSC). The initial term of each Agreement for IM Services will commence upon the date of such last approval by OSC and continue thereafter for a period of no more than seven years with a termination date which, if not terminated earlier, is coterminous with that of the Contract for PA Services.

Extension Term – The State reserves the right to extend the term(s) of any and all of these Agreement(s), each subject to the approval of the AG and OSC, for one additional three-year term.

Transition Period(s) – In addition to the initial and extension terms as set forth above, this RFP provides for a transition period with respect to each Contract, which may be invoked at the State’s discretion, of up to twelve (12) months beyond the end of the initial term or extension period, as applicable, to provide for an orderly transition of the relevant services to a Subsequent Service Provider. The use and length of the transition period will be at the discretion of the State. The Contractors shall cooperate with the State to develop a detailed transition plan upon notice from the State.

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**RFP Key Points**

1. **Read the RFP in its entirety.** Note key items such as critical dates, Services required, and Proposal submission requirements.
2. **RFP Glossary of Terms.** Definitions for certain terms in this document can be found in **Appendix C, *RFP Glossary***.
3. **Note the name, address, phone numbers and email address of the designated contacts.** These are the only individuals that you are permitted to contact regarding this RFP.
4. **Review the DTF website prior to submission of a Proposal.** Only the DTF website will contain all amendments and/or addenda to the RFP, including responses to written questions. It is the Bidder’s responsibility to check the Department’s website periodically for any updates. Note that all applicable amendments and/or addenda information must be incorporated into the Bidder’s Proposal. Failure to include such information may result in disqualification or a reduced technical score.
5. **Take advantage of the Question and Answer period.** Submit your questions by one of the methods identified by the date listed in the Schedule of Events. Responses and copies of the questions will be posted on the Department’s Procurement website at: <http://www.tax.ny.gov/about/procure>.
6. **Provide complete answers/descriptions.** To ensure you are not disqualified from Proposal evaluation, thoroughly read all RFP requirements and provide complete responses. Use **all** forms provided to submit your response. Vague or incomplete responses to requirements may result in a disqualification or a reduced technical score.
7. **Review the RFP document and your Proposal.** Make sure all requirements are addressed and all copies, including electronic copies, are identical and complete.
8. **Package your Proposal as required in the RFP.** Make sure your Proposal conforms to the packaging requirements. Proposals not packaged accordingly may be deemed non-responsive.
9. **Submit your Proposal on time.** Except as specified in **Section 6.1.16**, Proposals received after the date and time in the Schedule of Events will not be considered for award and may be returned, unopened, to the sender.

# Introduction

## Purpose

The State of New York, acting by and through the New York Secure Choice Savings Program Board (the “Board”), and utilizing staff and services provided by the New York State Department of Taxation and Finance (“Department” or “DTF”), acting under the direction of the Board for these purposes, is soliciting Proposals from qualified entities to provide the following Services for the New York State Secure Choice Savings Program (the “Program”):

* **Program Administration Services**: The Program Administration Services will be provided by PA Services Contractor(s) to implement and manage the Program in a prudent, efficient, and low-cost manner. The PA Services Contractor(s) will facilitate and promote Employee participation in the Program while also ensuring the portability of benefits for Enrollees. The recordkeeping platform should maximize simplicity and ease of administration for Program participants. The PA Services Contractor(s) will provide and be responsible for all of the following services: administration and compliance, recordkeeping, customer service, marketing and outreach, in accordance with the Bidder’s Proposal.
* **Investment Management Services**: The Investment Management Services Contractor(s) will provide a lineup of investment options to Program participants. The offerings will consist of: (1) a default of a target retirement date option, (2) a growth option, (3) a growth and income option, and (4) a conservative principal protection option. High-quality, low-cost underlying investments with an attractive performance track record are preferred.

The State is seeking Proposals from qualified entities to provide either the PA Services or IM Services, or both PA Services and IM Services. Bidders may respond with:

1. a Proposal for Program Administration Services, which identifies and provides pertinent information for all entities proposed to be used in providing the PA Services
2. a Proposal for Investment Management Services, which identifies and provides pertinent information for all entities proposed to be used in providing the IM Services, and which may include one or multiple investment options of the types outlined in the following Lots:

Lot 1: Target Retirement Date Option

Lot 2: Growth Option

Lot 3: Growth and Income Option

Lot 4: Conservative Principal Protection Option

1. a Proposal for each set of Services (A and B above).

**Note:** If a Bidder will be proposing to provide both sets of Services (A and B above), Proposals for each must be separately submitted in accordance with **Section 7, *Proposal Content and Submission Requirements***, and will be evaluated separately in accordance with **Section 8, *Proposal Evaluation***.

## Background

A sizeable portion of New York’s workforce lacks access to an employer-sponsored retirement savings plan. The Pew Charitable Trusts (“Pew”) estimates that, as of 2023, New York State has approximately 93,500 employers with 10 or more employees, employing (in total) approximately 8,306,100 employees.[[1]](#footnote-2) More than a third of these employers – approximately 34,500 that employ roughly 1,547,400 employees – do not offer a retirement plan. Fewer workplace plans mean less retirement savings for these employees. This coverage gap is a serious, growing issue for the State.

To address this challenge, the State enacted Article 43 of the NYS General Business Law (the “Act”),[[2]](#footnote-3) which establishes the New York State Secure Choice Savings Program, an automatic enrollment, Payroll Deduction Roth IRA. The Program is designed to provide a convenient, low-cost, and portable retirement savings mechanism for private-sector employees who do not already have access to a retirement plan at work.

The Act requires certain employers to participate by automatically enrolling in the Program each eligible employee who has not opted out of participation. Employees also will be able to opt-out of the Program at any time after they have been enrolled if they prefer not to participate.

The Program’s general administration, operation and governance will be administered by the Board. Board Resolution 2022-02 authorized delegation of authority to the Department to develop and implement the Program. The Department currently anticipates a Program launch in the 4th Quarter of 2024.

## Program Design Specifics

The following table highlights elements of the Program's design:

|  |  |
| --- | --- |
| **Program Account Type** | Roth IRA |
| **Employer** | Employers are required to participate in the Program if they:   1. have employed at least 10 individuals in New York State at all times during the prior calendar year; 2. have been in business for at least two years; and 3. have not offered a qualified retirement plan in the past two years.   Participating Employers will:   1. automatically enroll each Employee who has not opted out via a form provided prior to facilitation of access to the Program; 2. provide payroll deduction retirement savings arrangements for participating Employees; and 3. deposit, on behalf of such Employees, these funds into the Program. |
| **Employee** | Employees are eligible for the Program if they:   1. are 18 years of age or older; 2. are employed by an Employer; and 3. have earned Wages working for an Employer in New York state during a calendar year. |
| **Opt-out Period** | Employees have 30 days to opt-out before enrollment (Payroll deduction will not start until the 30th day after enrollment)  Employees who are enrolled will always have the right to opt-out of the Program. |
| **Investment Options** | At Program launch, investment options will include:   1. Target Retirement Date Option (default) 2. Growth Option 3. Growth and Income Option 4. Conservative Principal Protection Option |
| **Default Investment Option** | For Enrollees who do not otherwise designate an investment option, contributions will be invested in the appropriate Target Retirement Date Option.  In this case, initial contributions will be invested in a to-be-determined short-term, capital preservation option. |
| **Default Contribution Rate** | 3% of Employee Wages |
| **Option for Automatic Escalation of Contribution Rate** | Enrollee may be afforded an option to elect to have their contributions automatically increased on a specified timeline. |

## Program Estimates and Potential Market

Projections regarding the potential market for, and potential size of, the Program can be found below. These projections are based on a model developed by Pew using data from the Statistics of U.S. Businesses ("SUSB") published by the U.S. Census Bureau (the “Census Bureau”) and insights from prior research on workplace plan coverage. According to the model, if the Program launched in 2023, it would have a potential market (before adjusting for employer compliance, employee attrition, or opt-outs) of 34,500[[3]](#footnote-4) Employers and 1,547,400 eligible Employees. Further details are provided in the tables below.

| **Projected Eligible Employers in NY** | |  | **Projected Eligible Employees in NY** | |
| --- | --- | --- | --- | --- |
| **Total** | **34,500** | **Total** | **1,547,400** |
| 10-19 Employees | 20,900 | 10-19 Employees | 279,700 |
| 20-99 Employees | 11,800 | 20-99 Employees | 441,400 |
| 100+ Employees | 1,800 | 100+ Employees | 826,300 |

The model also projects Program size based on a range of employer compliance, attrition and employee opt-out assumptions, which are informed by prior research and observed outcomes in existing Auto-IRA Programs from other states. Assuming reasonable compliance, attrition, and opt-out rates, these projections also show that if the Program began operating in 2024, it could have 623,800 total Enrollees in year 7. Detailed projection estimates are provided in the table below.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  | **Yr 1**  (anticipate 2024) | **Yr 2** | **Yr 3** | **Yr 4** | **Yr 5** | **Yr 6** | **Yr 7** |
| **Projected Participating Firms (*after adjusting for attrition and reasonable compliance*)** | | | | | | | |
| **Total** | 2,600 | 8,500 | 22,700 | 28,700 | 28,800 | 29,000 | 29,100 |
| 10-19 | 1,600 | 5,100 | 13,700 | 17,300 | 17,400 | 17,400 | 17,500 |
| 20-99 | 900 | 2,900 | 7,800 | 9,800 | 9,900 | 10,000 | 10,000 |
| 100+ | 100 | 500 | 1,200 | 1,600 | 1,600 | 1,600 | 1,600 |
| **Projected Employees at Participating Firms (*without adjusting for attrition or opt-outs*)** | | | | | | | |
| **Total** | 118,000 | 389,200 | 1,051,300 | 1,342,100 | 1,364,600 | 1,387,700 | 1,411,400 |
| 10-19 | 21,100 | 68,700 | 183,300 | 231,100 | 232,100 | 233,200 | 234,200 |
| 20-99 | 33,300 | 108,800 | 290,700 | 367,300 | 369,500 | 371,700 | 373,900 |
| 100+ | 63,600 | 211,800 | 577,200 | 743,700 | 763,000 | 782,900 | 803,300 |
| **Projected Regularly Participating Employees (*after adjusting for attrition and opt-outs*)** | | | | | | | |
| **Total** | 52,100 | 172,000 | 464,700 | 593,200 | 603,200 | 613,400 | 623,800 |
| 10-19 | 9,300 | 30,400 | 81,000 | 102,200 | 102,600 | 103,100 | 103,500 |
| 20-99 | 14,700 | 48,100 | 128,500 | 162,300 | 163,300 | 164,300 | 165,300 |
| 100+ | 28,100 | 93,600 | 255,100 | 328,700 | 337,200 | 346,000 | 355,000 |

The following is a detailed explanation of the assumptions and approach used to generate these projections.

The approach starts with a statewide estimate of operational firms and employees from the SUSB, an annual data series from the Census Bureau. The SUSB annual snapshot of employment used comes from the week of March 12, 2019. The model uses the preceding five-year trend to project firms and employers as of a 2024 Program launch.[[4]](#footnote-5)

As only certain employers without an existing workplace retirement plan are required to participate in the Program, the model estimates the percentage of statewide employers without a plan. Because workplace plan adoption varies by firm size, with larger firms more likely to offer a plan, the model makes three coverage estimates based on research from Dushi, Iams and Lichtenstein (2015).[[5]](#footnote-6) For an accurate estimate of workplace plan coverage by firm size, Dushi, Iams and Lichtenstein matched data from the Survey of Income and Program Participation, a nationally representative longitudinal survey from the Census Bureau, and administrative tax data from Social Security Administration W-2 records.[[6]](#footnote-7)

Once registered, Employers must complete the ministerial tasks of providing an employee census and arranging for remittance of the payroll contributions for Participating Employees who have not already opted out. The model assumes increasing Employer completion of these tasks over time after Program launch. The model also accounts for some portion of the pool of covered Employers adopting their own workplace plan in response to the Program. Ultimately, the model assumes that Employer adoption will scale post-launch from approximately 7% in month 12 to approximately 80% in month 42.

Finally, the model reduces the number of Employees because of attrition (either through inaccurate or incomplete enrollment information or employment volatility). This conservative assumption results in approximately 65% of eligible Employees ultimately successfully registering and participating in the Program. For these remaining Employees, the model assumes an effective opt-out rate of 68%, based on the reported experience of the existing Auto-IRA Programs in other states that have implemented them. This assumption includes Employees formally opting out of the Program as well as those setting their contribution rate to 0%.

Taken together, the above assumptions lead to the conservative baseline case presented in the table above.

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# Scope of Services

The Contractor(s) will be expected to perform the applicable Services necessary to implement the requirements of all Applicable Laws, including among others, the Act. The PA Services Contractor(s), either on their own, or in combination with other service providers providing Program Administration Services, will be expected to perform all of the services listed under **Section 2.1,** ***Program Administration Services Requirements***. The IM Services Contractor(s) providing Investment Management Services will be expected to perform all of the services listed under **Section 2.2, *Investment Management Services Requirements***.

3. 1. Program Administration Services Requirements
5. 1. 1. Administration and Compliance

Throughout the term of the Agreement, the PA Services Contractor(s) must provide the following Administration and Compliance services for the Program within the Continental United States (“CONUS”) and in compliance with the Act, all applicable federal and state laws and regulations, and rules, policies, and guidelines promulgated by the Board with respect to the Program:

* + - 1. Provide recommendations on and assistance with implementing Program design elements. Monitor for changes in the legal and regulatory environment that may materially affect the Program and provide recommendations for amendments to the Program processes and offering materials.
      2. Provide a key personnel team to serve the Program and notify the Program of any changes to the management or composition of that team. The State reserves the right to screen and approve or deny key personnel, including PA Services Contractor(s) employees and Subcontractor(s), assigned to this engagement. Member(s) of the key personnel team must:
* Attend Board meetings commencing with OSC approval of the Agreement, unless otherwise directed by the Program.
* Respond to the need for telephone consultation within a 24-hour period and be available to the Program between the hours of 8:00 a.m. – 5:00 p.m. ET on Business Days (Monday through Friday, not including New York Stock Exchange holidays).
  + - 1. Develop, provide and distribute the following documentation prior to the opening of the Program for enrollment as described in §1309 of the Act (Employer and Enrollee Informational Materials and disclosure forms) upon approval from the Program, including:
* Program Forms – forms and operating documents necessary to administer the Program, including but not limited to, enrollment or application forms, Beneficiary designation forms, opt-out forms, transactional change forms, etc.
* Manuals – complete and fully documented administration and operations manual.
* Program Disclosure Statement(s) – all of the Program rules, including any amendments and supplements that may be necessary, and material information necessary for participation in the Program. Must be included in all Enrollee information packets.
* The IRA Disclosure Statement and the IRA Custodial Agreement – provided to all Enrollees in accordance with applicable Internal Revenue Service (“IRS”) regulations and guidance.

Produce all required Program Informational Materials in, at a minimum, English and Spanish, and to the extent able and proposed, in other languages in compliance with New York State Executive Law Section 202-A, which requires vital documents to be translated into a number of foreign languages, as found on <https://ogs.ny.gov/office-language-access>.

* + - 1. Provide monthly reports to the Program that provide current and previous period information including, but not limited to:
* Participating Employers – total registered, initiated payroll deductions.
* Enrollees – funded Accounts, effective opt-out rate.
* Program Funding – total assets, average funded balance, total contribution amount, average monthly contribution amount, average contribution rate, total withdrawal amount, Accounts with a full withdrawal, Accounts with a partial withdrawal.
  + - 1. Engage an independent certified public accountant to prepare annual audited financial statements for the Program following the end of each calendar year, as described in §1314(1) of the Act.
      2. Upon request, provide Program personnel with access to all files, records, documents and data, pertaining to the Program, which are in the PA Services Contractor’s possession and control, regardless of how that information is stored (“Program Records”). Access to the Program Records must be provided through a secured online connection to the recordkeeping platform. Copies of original Program documents (records provided to the PA Services Contractor(s) or an IM Services Contractor by Program participants) must be provided within five (5) business days upon request.
      3. At the PA Services Contractor’s expense, within sixty (60) days of notice from the Program that the Agreement will terminate, provide the Program, or an agent of the Program, all Program Records and data in a useable electronic form or format as directed by the Program including, but not limited to, any derived data, electronic images, correspondence and media output.
      4. Have business continuity and disaster recovery plans in place to ensure that the Services provided will be maintained in the event of an operational disruption. The business continuity and disaster recovery plan must be tested at least twice annually and results must be made available to the Program upon request. The situs of disaster recovery location must be maintained within CONUS.
      5. Engage as necessary and work cooperatively with the IM Services Contractor(s). In the event of a dispute or conflict between or among the PA Services Contractor(s) and the IM Services Contractor(s), the PA Services Contractor(s) will notify the Program.
      6. Maintain insurance coverage for the nature and scope of PA Services and assets under management. These include, but are not limited to: Professional Liability Errors & Omissions; Blanket Bond Coverage plus Computer Crime (covering Employee Dishonesty); Commercial General Liability; Data Breach and Privacy/Cyber Liability; Umbrella. Where it may be provided, the insurance coverage will be extended to cover the Board and the State as named “Additional Insureds”.
      7. Upon request by Program personnel, provide the Program with copies (in a format that may be easily used by the Program) of those parts of PA Services Contractor’s and Subcontractors’ SSAE 18 SOC1 and SOC2 Type 2 reports that contain information about systems controls (and audits thereof) that are relevant to the PA Services being provided to the Program.
    1. Recordkeeping

Throughout the term of the Agreement, the PA Services Contractor(s) must provide the following Recordkeeping services for the Program within CONUS and in compliance with the Act, all applicable federal and state laws and regulations:

* + - 1. Provide necessary recordkeeping, fund accounting and banking services to ensure efficient operation of a payroll-deduction IRA in accordance with §1310 of the Act. Services include, but are not limited to:
* Enrollment of new Accounts including Beneficiary information.
* Ability to fund the Account from a variety of sources including ACH, EFT, physical checks, payroll direct deposit, and Rollovers from other Roth IRAs or Roth 401(k)s.
* Process additional contributions.
* Make investment option exchanges.
* Make Account information changes.
* Process withdrawals from the Account through a variety of sources including physical checks, ACH, required minimum distributions, and Rollovers to other qualified plans.

The enrollment flow must comply with anti-money laundering laws and requirements.

* + - 1. Provide custodial services necessary to support the Program investment options as described in §1308 of the Act, including, but not limited to, the following: segregation of funds, cash management, fund accounting, accounting and reconciliation, net asset valuations, banking services, and purchase and sale of underlying investments.
      2. Provide Participating Employers with integrated connectivity with payroll services providers.
      3. The recordkeeping platform must abide by all applicable federal and state laws concerning information security, should be SSAE 18 (SOC2 Type 2) compliant and have a written security policy that conforms to best practices per ISO 27001 / ISO 27002.
      4. Provide a web-based IRA portal that allows users to easily perform account enrollment and account maintenance, including, but not limited to:
* Enrolling in the Program.
* Funding Account from a variety of sources, including ACH and payroll direct deposit.
* Initiating additional contributions.
* Viewing Account balances, personal account performance and investment option performance.
* Initiating investment option exchanges.
* Initiating Account information changes.
* Initiating Beneficiary information changes.
* Requesting withdrawals.
* Viewing confirmation and Account statements and applicable tax forms.
  + - 1. Provide a web-based portal that will serve as the Participating Employers’ primary source of information and assistance in fulfilling their Program responsibilities. The platform must include necessary transactional capabilities and pertinent instructions for the Participating Employers. The self-service platform should allow the Participating Employer to perform functions, including but not limited to:
* Create and manage a roster of Enrollees.
* Manage the submission, correction and funding of all periodic payroll contributions for Enrollees.
* Enter, remit and fund payroll contribution files.
* Provide access to Participating Employer delegates.
  + - 1. Provide and maintain a public-facing website providing access to the Enrollee portal. The website must be accessible, informative, mobile friendly, providing information in English and Spanish and, to the extent a Bidder is able and proposes to do so, in other languages currently required by New York State Executive Law Section 202-A, as found on <https://ogs.ny.gov/office-language-access>. The public website should contain all information required by §1309 of the Act, including, but not limited to:
* Educational information regarding options available to the Enrollees.
* Account transfer instructions for Enrollees.
* Description of the Program.
* Benefits of retirement saving.
* Provide educational information on Roth IRA accounts including tax implications and Beneficiary designations.
* Include retirement savings education and modelling tools.
* A copy of the periodic reviews of Program services as described in §1304(5) of the Act.
  + - 1. All systems, including but not limited to, the core processing platform, imaging, telephone systems and Program websites, must be available and functioning 99.5% of the time per month during 8:00 a.m. – 9:00 p.m. ET (Monday - Friday, not including New York Stock Exchange holidays or scheduled downtime).
      2. Scheduled system outages must be communicated to the Program four (4) weeks in advance of the outage. Notification will also be posted on the Program website. Scheduled system outages will occur only after 12:00 a.m. and before 8:00 a.m. ET on weekends. In addition, Program personnel must be promptly notified of unplanned system outages or service disruptions as they are identified, with Program website notification posted as soon as possible.
      3. Generate and distribute Roth IRA confirmation and account statements at least quarterly and an annual statement with the fair market value as of December 31 by U.S. postal service or, at a participant’s option, electronically, in accordance with applicable federal and state laws.
      4. Generate and distribute IRS Forms (e.g., Forms 1099-R and 5498) in accordance with Applicable Law.
    1. Customer Service

Throughout the term of the Agreement, the PA Services Contractor(s) must provide the following Customer Service services for the Program, all within CONUS and in compliance with Applicable Law and the Act:

* + - 1. Provide the following services for the Program:
* Call center services available via a dedicated toll-free telephone number.
* Staffed with live representatives and available from at least 8:00 a.m. through 9:00 p.m. ET (Monday through Friday, not including New York Stock Exchange holidays).
* Provide a voice messaging system for customer call backs during times that the call center is unavailable.
  + - 1. Provide access to customer service representatives for non-English-speaking callers in accordance with New York State Executive Law Section 202-A.
      2. Provide enough customer service representatives to satisfy the following targeted performance measures, including, but not limited to:
* Average Speed to Answer – 85% of service calls are answered by a customer service agent within 45 seconds on a monthly basis.
* Abandonment Rate – Less than 4% of service calls are abandoned by callers on a monthly basis.
* Financial Correspondence Timeliness – 98% of financial related correspondence, including email correspondence, is responded to within one business day of receipt. Remaining 2% is prioritized for next business day response.
* Non-Financial Correspondence Timeliness – 98% of non-financial related correspondence, including email correspondence, is responded to within five (5) business days of receipt.
* Contribution Processing – 99% of contributions received in good order are accurately posted to a matching account with the correct amount before the market close, or if received in good order after market close or on a non-business day, the next business day.
* Redemption Processing – 99% of distributions requested in good order are accurately posted to a matching Account with the correct amount and the correct mailing instruction before the market close, or if received in good order after market close or on a non-business day, the next business day.
* New Account Processing – 99% of new Accounts in good order are established accurately before the market close, or if received in good order after market close or on a non-business day, the next business day.
* Account Owner Statements – 98% are accurate and mailed and made available online within ten (10) business days following the end of the statement period.
* Daily Financial Confirmations – 98% are accurate and mailed and made available online within three (3) business days of the transaction date.
* Service Concerns and Complaint Response – 99% of service concerns and complaints, both in writing and made orally, are responded to within five (5) business days of receipt.
* Enrollment Material Timeliness – 100% of enrollment materials requests are fulfilled within three (3) business days, from the date of request, via email when possible and postal mail when email is not available.

Provide monthly reporting to the Program on each customer service performance measure.

* + - 1. Ensure all customer service representatives have ample and up-to-date knowledge of the Program.
      2. Provide a customer service record that will identify, track, and report on all calls with Participating Employers, Enrollees or authorized third parties. The customer service record must include a description of the inquiry and how the matter was resolved.
      3. Record and regularly review all customer calls and correspondence for quality control purposes and make recordings available to the Program upon request.
      4. Maintain accurate records relating to the PA Services hereunder for the period required by Applicable Law, but in no event less than the records retention requirements in **Appendix A, *Standard Clauses for New York State Contracts***.
    1. Marketing and Outreach
       1. **Program Informational Materials**
          1. The Act requires Informational Materials to be designed and disseminated to Program participants (Employers & Employees). The PA Services Contractor(s) are required to create the content of the Informational Materials and to disseminate them using the PA Services Contractor’s own staff, production materials and resources. The PA Services Contractor(s) must provide initial and ongoing (throughout the term of the Agreement) marketing and outreach services to the Program by creating and disseminating, in English and Spanish at a minimum, the following Informational Materials:
* Program Description to be provided in both English and Spanish on the Program website, which includes background information on the Act and the Program, Program rules, defaults and disclaimers, and any other materials that may contribute to an understanding of the Program.
* A Disclosure form which shall explain, but not be limited to, all of the following:
  + the benefits and risks associated with making contributions to the Program;
  + the process for making contributions to the Program;
  + how to opt out of the Program;
  + the process by which an Employee can participate in the Program with a level of employee contributions other than three percent;
  + that Employees are not required to participate or contribute more than three percent (Note: The Employee Informational Materials shall also include a form to note an Employee’s decision to opt out of participation in the Program or elect to participate with a level of Employee contributions other than three percent);
  + the process for withdrawal of retirement savings from the Program;
  + the process for selecting beneficiaries of the Enrollee’s retirement savings;
  + how to obtain additional information about the Program;
  + that Employees seeking financial advice should contact financial advisors, that Participating Employers are not in a position to provide financial advice, and that Participating Employers are not liable for decisions Employees make concerning their participation in the Program;
  + information on how to access available financial literacy programs;
  + that the Program fund is not guaranteed by the State; and
  + that Employees can opt out after they have been enrolled.
    - * 1. The PA Services Contractor(s) must supply all required Informational Materials at least one month prior to the Employee’s enrollment in the Program, and thereafter as the PA Services Contractor is alerted to the hiring of new Employees by the Employer.
        2. The PA Services Contractor(s) must also make all required Informational Materials available to Program participants on the public facing website for the Program, in both English and Spanish and, to the extent able and set forth in their Proposal, in other languages currently required by New York State Executive Law Section 202-A, as found on <https://ogs.ny.gov/office-language-access>.
      1. **Promotional, Educational, and Explanatory Outreach Communications**
         1. At a minimum, the PA Services Contractor(s) must create and provide promotional, educational and explanatory communications and provide outreach to promote Program awareness, including:
* Emails and/or direct mail, if necessary, to introduce, explain, and promote the Program to Employers and prospective Enrollees.
* Social media posts to introduce, explain, and promote the Program to Employers and prospective Enrollees.
* Educational materials for Employers, including:
  + Employer brochures and flyers that describe the Program and the Employer’s role in facilitating Employee access and contributions.
  + Video instructions to describe how Employers interact with the Employer portal.
* Educational materials for prospective Enrollees, including:
  + Financial literacy materials for prospective Enrollees.
  + Prospective Enrollee brochures and flyers that describe the Program.
  + Videos that promote the benefits of the Program and explain how it works.
* Outreach materials and services for the Program, including:
  + Provide staff resources to work directly with Employers to educate them about the Program.
  + Create presentations and webinars to inform Employers about the Program, including presentations that can be accessed online by Employers.
  + Create presentations and webinars to inform prospective Enrollees on the benefits of the Program, including presentations that can be accessed online by prospective Enrollees.
    1. Financial Stability

The PA Services Contractor(s) must be a financially stable entity, such that it may initiate and perform all obligations through the duration of the Agreement. The State will conduct a financial stability evaluation on the highest-ranked Bidder. The evaluation will include, but not be limited to, a review of the entity’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.

The PA Services Contractor(s) must continue to evidence financial stability throughout the term of the Agreement. The on-going financial stability of these entities may be evaluated based upon criteria similar to what was used in the initial financial stability evaluation process as set forth herein. If the State elects to re-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 State within 90 days of the end of the entities’ fiscal year. In addition, any material change in ownership of the entities, or material change in the financial condition of the entities, may require a re-evaluation of the Agreement in its entirety by the State.

* 1. Investment Management Services Requirements

Throughout the term of the Agreement, the IM Services Contractor(s) must provide the following Investment Management Services, all within CONUS, in compliance with all applicable federal and state laws, federal securities laws and regulations, the Act, any Board-approved Investment Policy Statement (“IPS”),[[7]](#footnote-8) and all rules, policies, and guidelines promulgated by the Board with respect to the Program:

* + 1. Offer investment options or products consistent with §1307 of the Act and the Investment Policy Statement as ultimately approved by the Board. Investment options may be proprietary or offered by third parties. Specific requirements are:
* Investment options or products must be allowable in Roth IRA accounts and appeal to a wide range of Program participants with various risk tolerance levels and contribution levels.
* IM Services Contractor(s) must ensure that the investment options or products may, at the direction of Program personnel, be removed, or replaced with an alternative investment option or product without penalty to Enrollees.
* In order to achieve the lowest possible expense ratios, options must utilize institutional type share classes, separately managed accounts, exchange-traded funds and/or commingled funds to the extent allowed in Roth IRA accounts.
* Passive strategies, if proposed, must be competitive to the industry on index tracking measures.
* Active strategies, if proposed, must have sound investment philosophies with proven track records of five (5) years or greater, and have the ability to match or beat the respective benchmarks over a full market cycle.
* IM Services Contractor(s) must inform the Program, within three business days, about significant matters pertaining to the investment of the Program assets, including, but not limited to changes in ownership, organizational structure, investment strategy, portfolio design, or configuration of the investment team.
* IM Services Contractor(s) must engage as necessary and work cooperatively with the PA Services Contractor(s), who will provide custodial and banking services necessary to support the Program investment options. In the event of a dispute or conflict between or among the PA Services Contractor(s) and the IM Services Contractor(s), the IM Services Contractor will notify the Program.
  + 1. Provide requested reports to assist the Program in the evaluations and audits of the investment products and the performance of the Program by providing information, including but not limited to, the following:
* Underlying investment prices over historical periods.
* Underlying investment composition.
* Underlying investment prospectus of each investment.
  + 1. Maintain prudent risk controls regarding operations risk management, trading risk management and compliance monitoring. Upon request, provide the State with records concerning such controls.
    2. Designate a dedicated key person who will notify the Program of any changes to the management or composition of the investment team.
    3. Respond to requests for telephone consultation within a 24-hour period and be available to the Program between the hours of 8:00 a.m. – 5:00 p.m. ET (Monday through Friday, not including New York Stock Exchange holidays).
    4. Attend at least one Board meeting annually commencing with OSC approval of the Agreement, unless otherwise directed by the Program.
    5. Maintain insurance coverage for the nature and scope of IM Services and assets under management. These should include, but need not be limited to: Professional Liability Errors & Omissions; Blanket Bond Coverage plus Computer Crime (covering Employee Dishonesty); Commercial General Liability; Data Breach and Privacy/Cyber Liability; Umbrella. Where it may be provided, the insurance coverage will be extended to cover the Board and the State as named “Additional Insureds”.
    6. The IM Services Contractor(s) must be a financially stable entity, such that it may initiate and perform all obligations through the duration of the Agreement. The State will conduct a financial stability evaluation on the highest-ranked Bidder. The evaluation will include, but not be limited to, a review of the entity’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.

The IM Services Contractor(s) must continue to evidence financial stability throughout the term of the Agreement. The on-going financial stability of these entities may be evaluated based upon criteria similar to what was used in the initial financial stability evaluation process as set forth herein. If the State elects to re-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 State within 90 days of the end of the entities’ fiscal year. In addition, any material change in ownership of the entities, or material change in the financial condition of the entities, may require a re-evaluation of the Agreement in its entirety by the State.

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# Qualifying Requirements

Only qualified entities may submit a Proposal in response to this RFP. A qualified entity is defined as: for PA Services, one that either on its own, or in combination with other service providers, meets **all of the Qualifying Requirements applicable to the Services the entity is proposing to provide**; for IM Services, one that meets **all of the Qualifying Requirements applicable to the Services the entity is proposing to provide.** Entities not meeting the applicable Qualifying Requirements should not submit a Proposal. Unless otherwise noted, Bidders must satisfy each applicable Qualifying Requirement as of May 31, 2023.

1. 1. Program Administration Qualifying Requirements

Bidders submitting a Proposal for Program Administration Services must satisfy all the requirements listed below in **3.1.1** through **3.1.5**. If a Bidder’s Proposal includes other service providers that will provide PA Services as identified in **Section 2, *Scope of Services***, the other service providers must have been used in at least one reference contract in the same respective service role.

* + 1. Have a minimum of 5 years of experience in the industry. This includes managing or administering IRAs, defined contributions plans, retirement plans or state-run investment plans that require the same or similar services as those described in **Section 2, *Scope of Services***.
    2. Administer a minimum of 250,000 IRA or similarly structured participant accounts (e.g., defined contribution, 529, ABLE, etc.).
    3. Designed and implemented two state-sponsored savings programs or public-sector defined contribution plans.
    4. Be registered as (or otherwise exempt from registration as) a broker dealer or transfer agent with the U.S. Securities and Exchange Commission.
    5. Demonstrate compliance with Internal Revenue Service requirements for IRA custodians.

Bidders must complete and submit **Attachment 2-A, *Qualifying Requirements Response Form (Program Administration Services*)** providing all information requested therein for each requirement demonstrating the required qualifications. The information provided will be verified by the State.

* 1. Investment Management Qualifying Requirements

Bidders submitting a Proposal for Investment Management Services must satisfy all the requirements listed below in **3.2.1** through **3.2.6**, as applicable to the Lot(s) being proposed.

* + 1. Have a minimum of 5 years of asset management experience.
    2. Have a 3-year track record as of December 31, 2022 for each proposed investment option.
    3. Have at least 5 public-sector defined contribution, defined benefit or state- sponsored savings plans under their investment management.
    4. Be registered as an investment adviser with the U.S. Securities and Exchange Commission.
    5. Bidders for Lot 1: Target Retirement Date Option must:
       1. Have at least $8 billion in assets under management as a firm.
       2. Have at least $1 billion in assets under management in the proposed Target Retirement Date strategy.
       3. Have Target Retirement Date Options that include portfolios that are separated by at least 5-year target-date increments.
    6. Bidders for Lot 2: Growth Option, Lot 3: Growth and Income Option, and/or Lot 4: Conservative Principal Protection Option must:
       1. Have at least $8 billion in assets under management as a firm.
       2. Have at least $300 million in assets under management in each proposed investment option.

Bidders must complete and submit **Attachment 2-B, *Qualifying Requirements Response Form (Investment Management Services*)** providing all information requested therein for each requirement demonstrating the required qualifications. The information provided will be verified by the State.

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# Technical Proposal Response Requirements

This section provides guidance to Bidders on the information to be included in the Bidder’s Volume One: Technical Proposal (see **Section 7, *Proposal Content and Submission Requirements***). The purpose of the technical proposal is for Bidders to demonstrate their experience, knowledge, and ability to successfully deliver the required Services outlined in **Section 2, *Scope of Services***. Responses must be complete, factual, and as detailed as necessary to allow the State to perform a comprehensive review and evaluation of Bidder’s proposed services, capabilities, and experience. **Failure to provide information in response to a request will negatively affect the technical proposal score.**

**If service providers in addition to the Bidder are proposed to be used for PA Services, identify the other service providers in Attachment 12, *Listing of Proposed PA Service Providers Form*. Additionally, as applicable, in each response to this Section describe the role of any other service provider.**

1. 1. General Information

All Bidders, whether submitting a Proposal for Program Administration Services or Investment Management Services, should provide **all** information requested below under this **Section** **4.1**.

2. 1. 1. Firm Overview and Background (All Bidders)
         1. Bidder should provide an overview of its firm, including inception date, assets under administration or management and a description of the Bidder’s organizational or corporate structure. Include a firm organizational chart.
         2. Bidder should provide a brief description of its plans for growth, such as asset growth and personnel growth, over the next three to five years.
         3. Bidder should provide the type, carrier and coverage limits for each of the following insurances and state, with respect to each, whether the Bidder can name the Board and the State of New York as named “Additional Insureds” for the coverage(s):

* Professional Liability Errors & Omissions
* Blanket Bond Coverage plus Computer Crime (covering Employee Dishonesty)
* Commercial General Liability
* Data Breach and Privacy/Cyber Liability
* Umbrella

Provide the requested information for any additional insurance that you will provide in connection with the PA Services or IM Services.

* + 1. Qualifications and Experience (All Bidders)
       1. Using the table below, Bidder should identify all key personnel who will be responsible for the Services pursuant to this RFP. Bidder should include:
* the executive with overall responsibility for the firm’s engagement
* the day-to-day manager
* the investment professional responsible for overall investment management (if applicable)
* the senior-most marketing professional
* the senior-most professional(s) responsible for:
  + - administration
    - recordkeeping
    - customer service.

Bidder should provide an organizational chart of the proposed Contract team and a brief bio for each individual. Bidder should also identify the team that will ensure compliance with Internal Revenue Service requirements for your IRA custodian.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Name & Firm** | **Title & Responsibility** | **Total Years of Experience** | **Years with Firm** | **Most Advanced Degree** |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

* + - 1. Bidder should explain any known or potential changes in proposed personnel. Discuss succession plans for key employees if retirements are planned within five years.
      2. Bidder should provide the Bidder’s relevant experience offering IRAs, defined contribution plans, defined benefit plans, state-run investment plans or other similar programs in the table below. The table should include information for any other service providers the Bidder proposes to use for PA Services. List any engagements that were terminated since January 1, 2018 and note the reason for termination.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Plan Name** | **Plan Type** | **Description of Service** | **Length of Service (Dates)** | **May 31, 2023** | |
| **Assets** | **Accounts** |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |

* + - 1. Using **Attachment 3, *References Response Form***, Bidders should provide two references for services performed that are most similar to the Services required under this RFP, and for which Bidder is submitting a Proposal.

For PA Services, Bidder’s references should demonstrate the required experience, either on its own or in combination with other service providers. For IM Services, Bidder’s references should demonstrate the required experience. The references may be the same references submitted on **Attachment 2**.

* + 1. Financial Stability (Bidders should not submit this information with their Proposals. Information will be requested from the highest-ranked Bidder.)

Upon the State’s request, the Bidder must provide the State with proof of financial stability required for the particular organizational structures, as set forth in the requirements listed in paragraphs 4.1.3.1, 4.1.3.2, 4.1.3.3, and 4.1.3.4 below. Where reviewed annual financial statements are required, they must have been prepared by a CPA in accordance with GAAP. Interim financial statements that are requested may be reviewed, compiled, or prepared by the entity. All required information must be provided for any predecessor entity within the last three (3) years and any other subsidiary, affiliate, or related company that may be requested by the State.

Financial Data to be Provided

* + - 1. If the entity is a subsidiary of a parent company that is publicly held, it must provide audited annual financial statements for the parent company and subsidiary, including consolidating statements, for the last three (3) years.

The most recent interim financial statements are also required for both the parent company and subsidiary.

* + - 1. If the entity is a subsidiary of a parent company that is privately held, it must either

(a) comply with the requirement outlined in paragraph 4.1.3.1 above

OR

(b) submit reviewed annual financial statements for both the parent company and subsidiary, including consolidating statements, for the last three (3) years.

The most recent interim financial statements are also required for both the parent company and subsidiary.

OR

(c) submit unaudited/company prepared annual financial statements for both the parent company and subsidiary for the last three (3) years, a separate Dun and Bradstreet Comprehensive Report (dated within 30 days of bid submittal) for both the parent company and subsidiary, and a statement explaining why audited/reviewed annual financial statements are not available.

The most recent interim financial statements are also required for both the parent company and subsidiary.

* + - 1. If the entity is a publicly held company and is not a subsidiary of a parent company, it must provide audited annual financial statements for the last three years.

The most recent interim financial statements are also required.

* + - 1. If the entity is a privately held company and is not a subsidiary of a parent company, it must either

(a) provide audited or reviewed annual financial statements for the last three (3) years.

The most recent interim financial statements are also required.

OR

(b) submit unaudited/company prepared annual financial statements for the last three (3) years, a Dun and Bradstreet Comprehensive Report (dated within 30 days of bid submittal), and a statement explaining why audited/reviewed annual financial statements are not available.

The most recent interim financial statements are also required.

In addition, the Bidder must provide the following information:

* The name and phone number of a contact at its primary bank in order for a bank reference to be obtained as part of the financial stability evaluation.
* Documentation attesting to any significant line(s) of credit that are available to the entity.

This documentation must include information identifying the source of such lines and detail the maximum credit amount(s) available to the entity, outstanding balance(s), and current amount(s) available.

* A statement concerning whether or not the entityis a guarantor of the debt of any other entity.
* If the entity is a subsidiary of a parent company, the Bidder must explain, in detail, the inter-company financial relationship between the parent company and the entity. The Bidder must indicate if the parent company guarantees the debt of the entity, or if the entity guarantees the debt of the parent company.
* Organizational charts, including a listing and detailed description of:
* The entity’s primary business units and divisions;
* Key executives;
* Any and all subsidiaries; and
* Any and all minority interests, joint ventures, or other type of business affiliations.
* Brief biographies on its key officers and management.
  1. Program Administration Services

Bidders submitting a Proposal for Program Administration Services as outlined in **Section 2.1,** ***Program Administration Services******Requirements*** should provide all information requested below under this **Section 4.2**.

Administration and Compliance

* + - 1. Bidder should provide a detailed implementation timeline and project plan for Program launch, including therein details concerning the timing of a pilot launch before the Program is opened for wider enrollment.
      2. Bidder should describe the policies, procedures and resources it will employ to comply with applicable federal tax and securities laws, SEC, IRS and Municipal Securities Rulemaking Board (“MSRB”) rules and regulations, New York State statutes and regulations, and industry best practices for IRA administrators.
      3. Bidder should describe how it will monitor for changes in the legal and regulatory environment and provide recommendations for amendments to Program design elements, processes and offering materials. The description should include the monitoring tools and services Bidder will utilize.
      4. Bidder should discuss at least two examples of state-run investment programs or defined contribution plans that it has designed and launched. Describe how Bidder interacted with the Program sponsor to provide recommendations on and assistance with implementing Program design elements.
      5. Bidder should describe the key personnel team’s ability to be available to the Program from 8:00 a.m. – 5:00 p.m. ET, respond to Program telephone consultation requests within 24 hours, and attend Board meetings.
      6. Bidder should list all administrative documents/records it will provide for customer account set-up, maintenance and transactions. Include the medium and frequency of distribution. At a minimum, provide samples of Program Forms, Manuals, Program Disclosure Statement, the IRA Disclosure Statement and the IRA Custodial Agreement.
      7. New York State Executive Law Section 202-A requires vital documents to be translated into a number of foreign languages, as found on <https://ogs.ny.gov/office-language-access>. Bidder should describe its past experience in providing Employer and Enrollee Informational Materials in these foreign languages and its action plan for providing materials in these foreign languages.
      8. Bidder should provide a sample of program level reporting it provides to a state-run investment program or defined contribution plan that Bidder currently administers. Include the medium and frequency of the report. Bidder should also describe its ability to provide the specific data points included in **Section 2.1.1, *Administration and Compliance,* Requirement 2.1.1.4,**. Provide any additional data points Bidder believes would be beneficial to the administration of the Program.
      9. Bidder should describe how it will provide Program personnel with online access to all Program Records. Include a description of the features that will ensure this is a private and secure connection. Describe your process for providing copies of original Program documents (as required by **Section 2.1.1, *Administration and Compliance*,** **Requirement 2.1.1.6**) within five (5) business days upon request.
      10. Bidder should describe how it will provide Program personnel, or an agent for the Program, with all Program Records, in a usable electronic format, as directed by the Program, within sixty (60) days of notice from the Program that the Agreement will be terminated. List the specific formats Bidder can utilize to transfer the Program Records. State whether Bidder has distributed or received information similar to the Program Records in the past. If so, Bidder should describe the process and formats.
      11. Bidder should describe its process for engaging an independent certified public accountant to prepare annual audited financial statements for the Program following the end of each calendar year, as described in §1314(1) of the Act.
      12. Bidder should describe its business continuity and disaster recovery protocol including the testing performed and frequency. Indicate the date of the last test and provide the distance between Bidder’s normal production site and the disaster recovery location.
      13. Bidder should disclose any data breaches experienced by any entity that Bidder proposes to use in providing Services since January 1, 2018. Describe the notification protocols for data breaches.

Recordkeeping

* + - 1. Bidder should describe the recordkeeping system(s) Bidder will use. Indicate how long Bidder has used the system, if the system was developed internally or provided by a third party and whether modifications to the system will be required to support the Program. Bidder should describe how the recordkeeping platform interacts with the fund accounting and banking services providers.
      2. Bidder should provide the most recent SSAE 18 SOC1 and SOC2 Type 2 reports for Bidder’s firm and each of its proposed other service providers who will be performing Services for the Program. List any substantive issues raised in these reports and remedial actions taken. Describe Bidder’s oversight and risk management procedures to ensure the operating effectiveness of any proposed other service providers.
      3. Bidder should describe how it will integrate payroll systems used by Participating Employers of various sizes, including any payroll processes that must be done manually.
      4. Bidder should identify the payroll providers currently integrated with its recordkeeping system and indicate the degree of integration and provide an overview of the data exchange process. Describe the steps necessary for a payroll provider to integrate with Bidder’s platform.
      5. Bidder should describe its proposed enrollment process via web and paper applications. Include a description of how Bidder complies with anti-money laundering laws and regulations.
      6. Bidder should describe its internal processes and procedures to proactively identify potentially fraudulent activities.
      7. Bidder should list the online IRA platform services and capabilities that it will make available for Participating Employers and Enrollees. Bidder should provide access to a demonstration site that represents the online experience of Participating Employers and Enrollees on the IRA platform (preferred), or screenshots of the site at a minimum. Bidder should include details on Participating Employer tasks performed on its platform such as how a Participating Employer uploads Enrollee data.
      8. Bidder should describe how it will provide the custody services necessary to support the Program investment options. The description should include:
* Identifying the entities that will perform the services.
* If the Bidder provides these services for a similar state-run investment program or defined contribution plan that Bidder currently administers, identify the plan or program.
* How long Bidder has provided these services.
* Specific processes and procedures that are in place to mitigate errors such as cash out of balances, incorrect market trades and net asset valuation errors.
  + - 1. Bidder should discuss any exceptions or restrictions to the types of underlying investments or number of investment options that Bidder can support.
      2. Bidder should describe how it will comply with Roth IRA contribution limits, including methods for preventing excess contributions.
      3. Bidder should explain how it will ensure that Enrollees contributing through multiple Participating Employers will have only one IRA Account in the Program.
      4. Bidder should specify the rules it proposes to implement for funds availability and hold times. List all transaction methods you offer, including financial (e.g., withdrawals, contributions, transfers, etc.) and non-financial (e.g., account information changes) and identify the processing times for each. Specify the rules proposed to implement for funds availability and hold times. Include if a third party is used to verify banking information (e.g., Yodlee and Plaid).
      5. Bidder should describe how it will process Roth IRA Direct Transfers and Roth IRA Rollovers.
      6. Bidder should provide an example of a transaction confirmation statement and an annual Account statement that Bidder currently utilizes for IRAs or other similar programs.
      7. Bidder should provide a sample form 1099-R and 5498 or similar tax forms that Bidder currently utilizes.
      8. Bidder should describe its website development capabilities. Bidder should provide a link to a public website it currently manages for a state-run investment program or defined contribution plan similar to the Program.
      9. Bidder should describe whether the Program website and online portals will be mobile optimized and equally accessible across all internet browsers. Bidder should identify exceptions, if any.
      10. Bidder should indicate its ability and willingness (and timeline, if applicable) to offer a fully functional, mobile application for the Program.
      11. Bidder should describe how, and the extent to which, the proposed Program websites will comply with New York State Executive Law Section 202-A requirements to provide documents in languages in addition to English and Spanish.
      12. Bidder should describe the online security protocols, data encryption, cybersecurity and other measures that will be used to protect Participating Employer and Enrollee confidential information from unauthorized access or fraud. Include Bidder’s written security policy and confirm that it conforms to best practices per ISO 27001 / ISO 27002.
      13. Bidder should describe its ability to maintain system availability measures listed in Section 2.1.2, *Recordkeeping*, Requirement 2.1.2.8.
      14. Bidder should describe its ability to meet the communication requirements pertaining to planned and unplanned system outages listed in Section 2.1.2, *Recordkeeping*, Requirement 2.1.2.9.

Customer Service

* + - 1. Bidder should describe its customer service center, including:
* Geographical location(s) of customer service representatives who will support the Program
* Days and hours of operation for Program-related services
* Number of customer service representatives proposed to staff the Program
* Staffing projection modeling
* All software that will be used to provide Program customer service
* Whether Bidder has sufficient existing staff to meet the Program volumes or if the Bidder will add staff if engaged by the Program
  + - 1. Bidder should describe all customer service communication methods that will support the Program and the order in which they will be used (e.g., live customer service, live chat, email, etc.). Indicate whether Bidder will offer interactive voice response technology. Explain how these communication methods will comply with New York State Executive Law Section 202-A.
      2. Bidder should describe its ability to meet the customer service standards and performance measures listed in Section 2.1.3, *Customer Service*, Requirements 2.1.3.1, 2.1.3.2, and 2.1.3.3.
      3. Bidder should describe its methodology for handling peak volume call center periods. Include whether calls will be transferred to other teams within your organization and, if so, whether all representatives answering those calls will be trained on the Program.
      4. Bidder should describe its capability to seamlessly facilitate remote work for customer service representatives in the event of a disruptive event.
      5. Bidder should describe the Roth IRA- and Program-specific training it will provide to customer service representatives initially and on an ongoing basis. Include the average number of hours required for initial training and training methods and materials to be used.
      6. Bidder should provide the following call center performance statistics for two similar plans (e.g., state-sponsored savings programs, defined contribution, etc) for each of calendar year 2021 and 2022.

|  |  |  |
| --- | --- | --- |
| **Calendar Year 2021** | **[Plan Name]** | **[Plan Name]** |
| **Number of calls** |  |  |
| **Number of calls answered** |  |  |
| **Number of calls abandoned** |  |  |
| **Average speed to answer** |  |  |
| **Average talk time** |  |  |
| **Average hold time** |  |  |
| **Calendar Year 2022** | **[Plan Name]** | **[Plan Name]** |
| **Number of calls** |  |  |
| **Number of calls answered** |  |  |
| **Number of calls abandoned** |  |  |
| **Average speed to answer** |  |  |
| **Average talk time** |  |  |
| **Average hold time** |  |  |

* + - 1. Bidder should provide an example of customer service performance measure reports it currently provides to a state-run investment program or defined contribution plan.
      2. Bidder should provide its customer satisfaction scores since January 1, 2020. If Bidder’s customer service performance has been audited by a third party, provide a copy of the most recent evaluation.
      3. Bidder should discuss its procedures for monitoring, resolving and escalating customer complaints.
      4. Bidder should describe its system for logging customer service inquiries from Employers or Enrollees. Provide screenshots of, or access to, the platform demonstrating the type of inquiry, date and time, who received and how the inquiry was resolved.
      5. Bidder should describe the system it will use to capture and archive customer calls, including stating for how long such recordings are maintained by Bidder. Bidder should explain how it will make such recordings available to Program personnel. Describe Bidder’s process for utilizing recorded calls for training and recordkeeping purposes.

Marketing and Outreach

* + - 1. Bidder should describe how it will provide marketing services for the Program set out in Section 2.1.4. If Bidder utilizes an internal marketing team, describe the team and the functions they provide. If Bidder utilizes a third-party vendor, identify the firm and explain how Bidder will oversee its work for the Program.

The description should include how the Bidder will provide the Program Informational Materials and Promotional, Educational, and Explanatory Outreach Communications to promote Program awareness and elicit enrollment among all Employers and prospective Enrollees.

Proposals should describe Bidder’s proposed use of:

* Emails to promote the Program to all potential Employers and all prospective Enrollees.
* Direct mail to all potential Employer participants.
* Social media posts and/or advertisements designed to promote the Program to all potential Employers and all prospective Enrollees.
* Any other methods (please describe)

Bidder should explain how its communication and promotional campaigns will differentiate by participant demographics and utilize the appropriate media for each group.

* + - 1. Bidder should describe its relevant experience marketing Roth IRAs, defined contribution plans, defined benefit plans, state-run investment plans or other similar programs to employers and employees. Bidder should provide examples of materials that the Bidder has successfully used in the past to assist employers and engage participants.

The description should include how the Bidder will:

* create and produce educational materials for Employers, including but not limited to:
  + - Employer brochures and flyers that describe the Program.
    - Webinars and/or video instructions to describe how Employers interact with the Employer portal.

The Bidder should explain how it proposes to utilize multiple mediums including print, electronic and video, to provide Employer materials.

* create and produce educational materials for prospective Enrollees, including but not limited to:
  + - Prospective Enrollee brochures and flyers that describe the Program and the benefits of participation.
    - Webinars and/or videos that promote the benefits of the Program and clearly explains how it works.
    - Financial literacy materials provided to all prospective Enrollees.

The Bidder should explain how it proposes to utilize multiple mediums including print, electronic and video, to provide the prospective Enrollee materials.

* + - 1. Bidder should describe its experience producing and providing financial literacy materials that would increase understanding of, and encourage participation in, the Program.
      2. Bidder should describe its experience creating branding, logos and slogans for similar Programs (e.g., state-sponsored savings programs, defined contribution, etc.). Provide relevant examples.
      3. Bidder should describe how Bidder proposes to provide outreach services for the Program. Describe the Bidder’s strategy for reaching groups in a large and diverse State such as New York.
      4. Bidder should describe its proposed process to communicate with Employers throughout New York State identified by the Program.
  1. Investment Management Services

Bidders submitting a Proposal for Investment Management Services as outlined in **Section 2.2**, ***Investment Management Services******Requirements*** should provide all information requested below under this **Section 4.3**.

* 1. 1. Overall Management
        1. Bidder should describe its firm’s policies and procedures for complying with applicable federal and state laws, federal securities laws and regulations, the Act, and any applicable rules, regulations, or policies the Board may adopt with respect to the Program.
        2. Bidder should describe its ability to comply with the notification requirements in **Section 2.2,** ***Investment Management Services Requirements*, Requirement 2.2.4**.
        3. Bidder should describe its ability to provide assistance to the Program during periodic evaluations and audits of the investment products as required in **Section 2.2,** ***Investment Management Services Requirements*, Requirement 2.2.2**.
        4. Bidder should describe the day-to-day manager’s ability to be available to the Program from 8:00 a.m. – 5:00 p.m. ET, respond to Program telephone consultation needs within 24 hours, and attend Board meetings.
        5. Bidder should state whether the Bidder’s investment professionals invest their own assets in the investment option(s) the Bidder is proposing for the Program. Identify such investment options.
        6. Bidder should describe what distinguishes the Bidder’s firm from other investment managers with respect to the investment product(s) Bidder is proposing for the Program.
        7. Bidder should discuss the Bidder’s risk analysis and control methodology.
        8. Bidder should provide the most recent SSAE 18 SOC1 and SOC2 Type 2 reports for Bidder’s firm. List any substantive issues raised in these reports and remedial actions taken. If you do not have either of the reports, explain why and describe your plans to provide such reports (or some equivalent compliance records) in the future.
        9. Bidder should provide the approximate client turnover in the investment product(s) Bidder is proposing for the Program using the format below. For Target Retirement Date Options, provide the approximate client turnover for the overall fund lineup, focusing on defined contribution clients. For Non-Target Retirement Date Options, include all client types, institutional, commingled, mutual fund, etc.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **2018** | **2019** | **2020** | **2021** | **2022** | **2023 YTD**  **as of 5/31** |
| **Number of Clients Gained** |  |  |  |  |  |  |
| **Assets ($MM) Gained** |  |  |  |  |  |  |
| **Number of Clients Lost** |  |  |  |  |  |  |
| **Assets ($MM) Lost** |  |  |  |  |  |  |

* + 1. Proposed Investments
       1. Bidder should describe the proposed investment options for the Program.
       2. Bidder should identify which, and describe how, the proposed investment option(s) comply with the Program’s draft Investment Policy Statement (**Exhibit B**).
       3. The Program envisions that Enrollees who do not select an investment option will be defaulted into the applicable Target Retirement Date Option. For these Enrollees, the Program envisions their initial contributions will be invested in a to-be-determined short-term, capital preservation option (described under Default Investment Option in **Section 1.3**) in order to allow Enrollees to withdraw the funds without principal loss in the event they choose to opt out of the Program shortly after their account is funded. If the Bidder is proposing a Conservative Principal Protection Option (Lot 4), provide the name of the underlying investment and confirm whether it can be used as the short-term, capital preservation option.
       4. Bidder should provide details on the underlying investments included in each proposed investment option using the table below. Specify any underlying investment(s) that is not a registered mutual or exchange-traded option.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Underlying Investment** | **Investment Option Included In** | **Ticker** | **Share Class** | **Asset Class** | **Management Style** | **Revenue Sharing** | **AUM as of 5/31/2023** |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |

* + - 1. Bidder should provide a complete review of the Bidder’s investment methodology for the proposed products and the decision-making processes used in selecting them.
      2. Bidder should describe the Bidder’s views on an Open Architecture Platform.
      3. Bidder should state whether there has been a time when any of the Bidder’s proposed product(s) significantly underperformed its benchmark over a consecutive three-quarter period. If so, please explain.
    1. Lot 1: Target Retirement Date Option

Bidders submitting a Proposal for Investment Management Services that includes Lot 1: Target Retirement Date Option should provide **all** information requested below under this **Section 4.3.3**.

* + - 1. Bidder should outline the Bidder’s proposed team structure of those directly supporting this strategy. State how many investment professionals are solely dedicated to the Target Retirement Date Option.
      2. Bidder should describe the Bidder’s asset allocation approach and provide asset allocation details including sector weightings throughout the glidepath structure. Discuss any changes within the equity composition that occur throughout the lifespan.
      3. Bidder should state whether there is any tactical approach used by the Bidder’s target date team. If so, discuss any bands within asset and sub asset class levels. State what frequency tactical changes may be made.
      4. Over the past 3, 5, and 10 years beginning January 1, 2013, Bidder should highlight what percentage of the Bidder’s returns have been driven by asset allocation, manager selection, and other factors.
      5. Bidder should state the Bidder’s view on the ‘to vs. through’[[8]](#footnote-9) debate. State whether the Bidder’s philosophy has changed over the past 5 years beginning January 1, 2018.
      6. Bidder should describe any demographic or participant behavior assumptions used in the Bidder’s modeling that are specific to this Program.
    1. Passive Strategies

Lot 2: Growth Option, Lot 3: Growth and Income Option, and/or Lot 4: Conservative Principal Protection Option

Bidders submitting a Proposal for Investment Management Services that includes passively-managed Non-Target Retirement Date Option(s) (Lot 2: Growth Option, Lot 3: Growth and Income Option, and/or Lot 4: Conservative Principal Protection Option) should provide **all** information requested below under this **Section 4.3.4**.

* + - 1. Bidder should state how the Bidder replicates the index – full replication or sampling. If the answer is “sampling,” please provide a detailed explanation of the process.
      2. If applicable, Bidder should describe how the proposed product manages index reconstitution.
      3. If applicable, Bidder should state whether the performance of the proposed product has been impacted positively or negatively by index reconstitution.
      4. Bidder should explain how liquidity is managed for the proposed product. If cash is held, explain how equity exposure is maintained.
    1. Active Strategies

Lot 2: Growth Option, Lot 3: Growth and Income Option, and/or Lot 4: Conservative Principal Protection Option

Bidders submitting a Proposal for Investment Management Services that includes actively-managed Non-Target Retirement Date Option(s) (Lot 2: Growth Option, Lot 3: Growth and Income Option, and/or Lot 4: Conservative Principal Protection Option) should provide **all** information requested below under this **Section 4.3.5**.

* + - 1. Bidder should describe the benchmark against which the proposed product is evaluated.
      2. Bidder should state whether there have been any changes to the proposed product’s investment process over the past 5 years. If yes, Bidder should describe in detail.
      3. Bidder should describe the part(s) of your process that add the most value. Bidder should provide backup data on your answer.
  1. Bidder Attestation

The Bidder is required to submit **Attachment 4, *Bidder Attestation******Response Form***, attesting that the Bidder has read, understands and agrees on behalf of itself and any proposed service providers to comply with all requirements and provide all Services for which the Bidder has submitted a Proposal, as specified in this RFP, including but not limited to, those set forth in **Section 2, *Scope of Services***, **Section 4, *Technical Proposal Response Requirements***and **Section 5, *Financial Requirements***.

***[Remainder of Page Intentionally Left Blank]***

# Financial Requirements

Bidders are required to submit a completed and signed **Attachment 18, *Financial Response Forms*** that corresponds with the Services the Bidder is proposing to provide.



## Program Administration Services

Bidders for Program Administration Services must specify the fees by submitting:

* **Attachment-18-A**.

## Investment Management Services

Bidders for Investment Management Services (Lot 1, Lot 2, Lot 3, and/or Lot 4) must specify the fees by submitting the attachment(s) that corresponds to the Lot(s) being proposed:

* **Attachment 18-B-1** for Lot 1: Target Retirement Date Option
* **Attachment 18-B-2** for Lot 2: Growth Option
* **Attachment 18-B-3** for Lot 3: Growth and Income Option
* **Attachment 18-B-4** for Lot 4: Conservative Principal Protection Option

Bidders proposing IM Services are not required to offer all investment options envisioned in the draft IPS (**Exhibit B**), but must complete **Attachment 18** for each of the options included in its Proposal.

The completed **Financial Response Form(s)** should comply with the format and content requirements as in **Attachment 18**. Any fees or other costs that are not included in the Bidder’s responses to **Attachment 18** will not be eligible to be charged to Program Enrollees or included in any resulting Contract. A Bidder’s failure to provide a complete pricing response may result in the Bidder’s Proposal being deemed non-responsive.

Responses to **Attachment 18, *Financial Response Forms*** will be evaluated as described in **Section 8, *Proposal Evaluation***.

***[Remainder of Page Intentionally Left Blank]***

# Administrative Requirements



# Administrative Proposal Conditions

With the submission of a response to this Request for Proposals, the Bidder on behalf of itself and all proposed service providers agrees to the Proposal conditions outlined in this Section.

* + 1. Issuing Entity

This RFP is issued by the New York Secure Choice Savings Program Board, with DTF providing administrative assistance and staff resources for the purpose of implementing and administering the Program. The State, through the Board, is responsible for all criteria stated herein and for evaluation of all Proposals submitted.

* + 1. Solicitation

This RFP is a solicitation to bid, not an offer of a contract.

* + 1. Liability

The State of New York is not liable for any costs incurred by a Bidder in the preparation and production of any Proposal, or for any work performed prior to receiving the approval by both the AG and OSC of a formal contract.

* + 1. Proposal Ownership

All Proposals and accompanying documentation become the property of the State of New York and will not be returned. The State reserves the right to use any portions of the Bidder’s Proposal not specifically noted as proprietary.

* + 1. Proposal Security

Each Bidder’s Proposal will be held in strict confidence by Department staff and will not be disclosed except to the Board, agents of the State for purposes of Proposal review and evaluation, and to the Offices of the Attorney General and the State Comptroller, as may be necessary to obtain approvals of those control agencies for the final Agreement, and except as otherwise may be required by law.

Public inspection of the bids is regulated by the Freedom of Information Law (Article 6 of the New York State Public Officers Law (“Public Officers Law”)). The bids are presumptively available for public inspection. If this would be unacceptable to Bidders, they should apply to the Department for trade secret protection for those portions of their bid which may appropriately be identified as trade secrets. (See **Section 6.2.19**)

Section 74 of the Public Officers Law contains the code of ethics which sets forth that no officer or employee of a State agency should disclose confidential information that he acquires during the course of his official duties. This code controls the confidentiality of a Bidder’s Proposal unless the State grants a request for records access in accordance with the Freedom of Information Law.

Bidders should be advised that the confidentiality of their Proposals is founded upon statute, as described above. A nondisclosure agreement, whether prescribed by the State or the Bidder, would not alter the rights and responsibilities of either party under the Freedom of Information Law. Bidders should not propose a nondisclosure agreement for Department employees, for that would be legally ineffective to alter any legal responsibility under the Freedom of Information Law or the code of ethics.

The provisions of the Freedom of Information Law will also govern the confidentiality of any and all products or services supplied by the successful Bidder.

* + 1. Timely Submission

The Bidders are solely responsible for timely delivery of their Proposal to the location set forth by the stated Proposal due date/time and are solely responsible for delays in receipt, including but not limited to those due to use of third-party carriers.

* + 1. Proposal Effective Period

The Bidder’s Proposal must be firm and binding for a period of at least 180 days following the Proposal due date.

* + 1. Proposal Opening

Proposals will not be opened publicly. The State reserves the right at any time to postpone or cancel a scheduled Proposal opening.

* + 1. Bidder Proposal Clarification

Prior to award, the State reserves the right to seek clarifications, request Proposal revisions, or to request any information deemed necessary for proper evaluation of Proposals from all Bidders deemed to be eligible for Contract award. Failure of a Bidder to cooperate with the State’s effort to clarify a Proposal may result in the Proposal being labeled as non-responsive and being given no further consideration.

Additionally, the State reserves the right to use information submitted by the Bidder in response to the State’s request for clarifying information in the course of evaluation and selection under this RFP.

* + 1. Proposal Evaluation and Selection

See **Section 8, *Proposal Evaluation***,regarding Proposal selection and evaluation methodology. Submitted Proposals may be reviewed and evaluated by any personnel or agents of the State, other than one associated with a competing Bidder.

* + 1. Contract Negotiations and Authorized Negotiators

During contract negotiations, the State must have direct access to Bidder personnel who have full authority to make commitments on behalf of the Bidder. Bidders must include, as part of their Proposal, any restrictions under which their primary negotiators will operate.

* + 1. Bidder Notification of Intent to Award

Upon completion of the evaluation process, the successful Bidder will be advised of selection by the State through the issuance of a “Notification of Intent to Award” letter. Bidders who have not been selected by the State in response to this RFP shall be notified of such non-selection.

* + 1. Proposal Review and Contract Approval

Any Agreement resulting from this RFP will not be effective unless and until approved by both the Office of the Attorney General and the Office of the State Comptroller.

* + 1. Debriefing Sessions

Bidders will be notified in writing and, within fifteen (15) calendar days of such notification, may request the opportunity for a debriefing session. Such sessions will be limited to discussions of evaluation results as they apply to the Bidder receiving the debriefing.

* + 1. Bid Protest Policy

The procedures for handling protests of bid awards are set forth in **Appendix B, *Bid Protest Policy***.

* + 1. Reserved Rights

The State reserves the right to exercise the following:

1. Prior to the opening of Proposals, amend the RFP specifications to correct errors or oversights, or to change any of the scheduled dates, or to supply additional information, as it becomes available. Modifications to this RFP shall be made by issuance of amendments and/or addenda.
2. Prior to the opening of Proposals, direct Bidders to submit Proposal modifications addressing subsequent RFP amendments.
3. Withdraw the RFP, in whole or in part.
4. Eliminate any mandatory, non-material specifications with which no Bidder can comply.
5. Waive any requirement(s) that is not material.
6. Waive any immaterial deviation or defect in a Proposal. A waiver of immaterial deviation or defect shall in no way modify the RFP documents or excuse a Bidder from full compliance with the RFP requirements.
7. Evaluate, accept and/or reject any and all Proposals, in whole or in part, and to waive technicalities, irregularities, and omissions if, in the State’s judgment, the best interests of the Board/State will be served. In the event compliant bids are not received, the State reserves the right to consider late or non-conforming bids as offers.
8. Require the Bidder to demonstrate, to the satisfaction of the State, any information presented as a part of their Proposal.
9. 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.
10. Seek revisions of Proposals.
11. Correct any arithmetical errors or other apparent errors in any Proposal and, in the event that the fees or costs in two or more Proposals are not comparable, to make appropriate adjustments to render the fees and costs comparable.
12. Request an oral presentation from any or all responsive Bidders.
13. Disqualify any Bidder whose conduct and/or Proposal fails to conform to the requirements of the solicitation.
14. Use 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 a request for clarifying information in the course of evaluation and selection under this RFP.
15. Negotiate with the successful Bidder within the scope of the RFP to serve the best interests of the Board/State.
16. Conduct contract negotiations with the next ranked Responsible Bidder should the State be unsuccessful in negotiating an agreement with the selected Bidder.
17. Proceed to the next highest ranked Bidder in the event that a Bidder who had achieved best value prior to contract award cannot satisfy the requirements as stated in this RFP.
18. If an Agreement is terminated within 12 months of making award, the State reserves the right, with the approval of the New York State Attorney General, and the Office of the State Comptroller, to award a contract to the next highest ranked Bidder.
19. Utilize any and all ideas submitted in the Proposals received.
20. Make an award under the RFP, in whole or in part.

# Administrative Contract Conditions

With the submission of a response to this Request for Proposals, the Bidder on behalf of itself and all proposed service providers agrees to all contract conditions outlined in this Section.

* + 1. Appendix A

**Appendix A, *Standard Clauses for New York State Contracts*** (dated October 2019) will be incorporated, in its entirety without revision, into any Agreement resulting from this RFP.

* + 1. Payments

All payments will be made in accordance with the Contract(s) to be entered.

* + 1. Public Announcements

Public announcements or news releases relating to this RFP or the resulting Agreement shall not be made by any Bidder or its agent without the prior approval of the State. All requests for public announcements should be directed to one of the designated contacts specified herein. Such request for approval shall not be considered until an approved Agreement is in place.

* + 1. New York State Vendor File

Prior to being awarded a contract pursuant to this Solicitation, the Bidder(s) and any designated authorized resellers who accept payment directly from the State, must be registered in the New York State Vendor File (Vendor File) administered by the Office of the State Comptroller (OSC). This is a central registry for all vendors who do business with New York State Agencies and the registration must be initiated by a State Agency. Following the initial registration, unique New York State ten-digit vendor identification numbers will be assigned to your company and to each of your authorized resellers (if any) for usage on all future transactions with New York State. Additionally, the Vendor File enables vendors to use the Vendor Self-Service application to manage all vendor information in one central location for all transactions related to the State of New York.

If Bidder is already registered in the New York State Vendor File, list the ten-digit vendor ID number on the first page of the Proposal document. Authorized resellers already registered should list the ten-digit vendor ID number along with the authorized reseller information.

If the Bidder is not currently registered in the Vendor File, complete the enclosed **Exhibit C, *New York State Office of the State Comptroller Substitute Form W-9***, and submit it with your bid. In addition, if authorized resellers are to be used, an OSC Substitute W-9 form should be completed and filed by each of the designated authorized resellers. The DTF Procurement Services Unit will initiate the vendor registration process for all Bidders recommended for contract Award and their authorized resellers. Once the process is initiated, registrants will receive an email from OSC that includes the unique ten-digit vendor identification number assigned to the company and instructions on how to enroll in the online Vendor Self-Service application.

For more information on the vendor file please visit the following website:

<https://www.osc.state.ny.us/state-vendors/portal/enroll-vendor-self-service-portal>

1. * 1. Contractor Requirements and Procedures for Participation by New York State-Certified Minority and Women-Owned Business Enterprises and Equal Employment Opportunities for Minority Group Members and Women

**New York State Law**

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations, the procuring entity is required to promote opportunities for the maximum feasible participation of New York State-certified Minority and Women-owned Business Enterprises (“MWBEs”) and the employment of minority group members and women in the performance of the procuring entity’s contracts.

**Business Participation Opportunities for MWBEs**

For purposes of this solicitation, the State hereby establishes an overall goal of 0% percent for MWBE participation, 0% percent for New York State-certified Minority-owned Business Enterprise (“MBE”) participation and 0% percent for New York State-certified Women-owned Business Enterprise (“WBE”) participation (based on the current availability of MBEs and WBEs).

* + 1. Equal Employment Opportunity Requirements

By submission of a bid or proposal in response to this solicitation, the respondent agrees with all of the terms and conditions of **Appendix A, *Standard Clauses for New York State Contracts***including Clause 12 - Equal Employment Opportunities for Minorities and Women. The respondent is required to ensure that it and any subcontractors awarded a subcontract for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work"), except where the Work is for the beneficial use of the respondent, undertake or continue programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.

The respondent will be required to submit a ***Minority and Women-Owned Business Enterprise*** *-* ***Equal Employment Opportunity Policy Statement*,** **Exhibit D**, to the State with its bid or proposal.

If awarded a Contract, the respondent shall submit a ***Workforce Utilization Report* (Exhibit F)**, and shall require each of its subcontractors to submit a Workforce Utilization Report, in such form as shall be required by the State on a quarterly basis during the term of the Contract.

Pursuant to Executive Order #162, contractors and subcontractors are also required to report the gross wages paid to each of their employees for the work performed by such employees on the contract on a quarterly basis.

Further, pursuant to Article 15 of the Executive Law (the “Human Rights Law”), all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor and sub-contractors will not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

**Please Note: Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility and/or a breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract.**

* + 1. Participation Opportunities for New York State Certified Service-Disabled Veteran-Owned Business Enterprises

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses (“SDVOBs”), thereby further integrating such businesses into New York State’s economy. The State recognizes the need to promote the employment of service-disabled veterans and to ensure that certified Service-Disabled Veteran-Owned Businesses have opportunities for maximum feasible participation in the performance of State contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders/Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, the Department conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to Contractor. Nevertheless, the Bidder/Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/veterans/>.

The Bidder/Contractor is encouraged to contact the Office of General Services’ Division of Service-Disabled Veteran’s Business Development at 518-474-2015 or [VeteransDevelopment@ogs.ny.gov](mailto:VeteransDevelopment@ogs.ny.gov) to discuss methods of maximizing participation by SDVOBs on the Contract.

* + 1. Permission to Investigate

In the event that the State determines it necessary to investigate evidence relative to a possible or actual 1) crime or 2) breach of confidentiality or security, Contractor and its Subcontractors shall cooperate fully with the State to investigate and, as may be necessary, to identify the responsible individuals. Contractor and its Subcontractors shall, make their employees and all relevant records, including personnel records and employee photographs, available to State and/or other Investigators upon request by the State.

* + 1. Workers’ Compensation and Disability Benefits Certifications



Sections 57 and 220 of the New York State Workers’ Compensation Law (WCL) provide that the State 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 the State, successful Bidders will be required to verify for the State, on forms authorized by the New York State Workers’ Compensation Board, the fact that they are properly insured or are otherwise in compliance with the insurance provisions of the WCL. The forms to be used to show compliance with the WCL are listed below. 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) 462-8882 or (866) 298-7830. Failure to provide verification of either of these types of insurance coverage by the time an Agreement is ready to be executed will be grounds for disqualification of an otherwise successful Proposal.

The successful Bidder must submit the following documentation within a reasonable period after notification of selection for award:

1. Proof of Workers’ Compensation Coverage:

Upon notification of award, the successful Bidder will be requested to submit ONE of the following forms as Workers’ Compensation documentation:

1. Form C-105.2 – Certificate of NYS Workers’ Compensation Insurance Coverage issued by private insurance carrier (or Form U-26.3 issued by the State Insurance Fund); or
2. Form SI-12 – Certificate of NYS Workers’ Compensation Self-Insurance Coverage (or Form SIG-105.2 Certificate of Participation in Workers’ Compensation Group Board-Approved Self-Insurance); or
3. Form CE-200 – Certificate of Attestation of Exemption from NYS Workers’ Compensation and/or Disability Benefits Coverage.
4. Proof of Disability Benefits Coverage:

Upon notification of award, the successful Bidder will be requested to submit ONE of the following forms as Disability documentation:

1. Form DB-120.1 – Certificate of Insurance Coverage under the NYS Disability and Paid Family Leave Benefits Law; or
2. Form DB-155 – Certificate of Self-Insurance Coverage under the NYS Disability and Paid Family Leave Benefits Law; or
3. Form CE-200 – Certificate of Attestation of Exemption from NYS Workers’ Compensation and/or Disability Benefits Coverage.

Further information is available at the Workers’ Compensation Board’s website, which can be accessed through this link: <http://www.wcb.ny.gov>.

Please note that although these forms are not required as part of the Proposal submission, the State encourages Bidders to include them with their Proposal submission to expedite contract execution if the Bidder is awarded the Contract.

**NOTE:** **An ACORD form is not acceptable proof of New York State Workers’ Compensation or Disability Benefits insurance coverage.**

* + 1. Cover Letter

A cover letter transmitting the Proposal must be signed by an official authorized to bind the Bidder to its provisions.

The cover letter should include the following:

* The complete name and address of the bidding entity;
* The Federal or Taxpayer Identification Number of the entity;
* The ten-digit Vendor File ID number (if available); and
* An affirmation that the Proposal is binding for the required period indicated in **Section 6.1.7**.
  + 1. Vendor Responsibility Questionnaire

Article XI §163(4)(d) of the State Finance Law states that “service contracts shall be awarded on the basis of best value to a responsive and responsible offerer.”

Upon identification of the Bidder with the highest score, the Bidders’ Vendor Responsibility will be analyzed to ensure that the Bidder is responsible.

In the event that a Bidder is found to be not responsible, the Bidder may be disqualified.

Bidders must complete a Vendor Responsibility Questionnaire. Bidders are invited to file the required Vendor Responsibility Questionnaire online via the OSC New York State VendRep system or may choose to complete and submit a paper questionnaire. To enroll 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://onlineservices.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 [ITSERVICEDESK@OSC.NY.GOV](mailto:ITSERVICEDESK@OSC.NY.GOV). Bidders opting to file a paper questionnaire can obtain the appropriate questionnaire from the VendRep website at [www.osc.state.ny.us/vendrep](http://www.osc.state.ny.us/vendrep) or may contact one of the Department’s designated contacts.

Bidders that have filed a Vendor Responsibility Questionnaire online that has been certified/updated within the last six (6) months or Bidders opting to file online must complete **Attachment 5, *Vendor Responsibility Response Form***. If a Vendor Responsibility Questionnaire has been filed online and has not been certified within the last six months, the Bidder must either update/recertify the online questionnaire or submit a new paper Vendor Responsibility Questionnaire.

Bidders filing paper questionnaires must submit a copy of the completed questionnaire with their Proposals.

Upon notification of award, the Contractor will be required to update/recertify the online questionnaire.

* + 1. Designation of Prime Contact

The Bidder is required to designate an individual as the prime contact for the Bidder’s Proposal. The designated individual must be authorized to respond on behalf of the Bidder. This designation will last for the entire evaluation process and contract negotiations. Any request for change in the designated contact must be submitted in writing to the issuing officer designated in this RFP and must be accompanied by an updated form.

The Bidder must complete and submit the **Attachment 6, *Designation of Prime Contact Response Form*.**

* + 1. Non-Collusive Bidding Practices Certification

A bid shall not be considered for award nor shall any award be made where the conditions of the Non-Collusive Bidding Certification have not been complied with; provided, however, that if in any case the Bidder cannot make the foregoing certification, the Bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefore. Where the above conditions have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the State, public department or agency to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition (Section 139-d of the State Finance Law).

The Bidder is responsible for reading, signing and submitting the **Attachment 7, *Non-Collusive Bidding Certification*.**

* + 1. Procurement Lobbying

Pursuant to State Finance Law §§139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between the State and an Offerer/Bidder during the procurement process. An Offerer/Bidder is restricted from making contacts from the earliest notice of intent to solicit offers/bids through final award and approval of the Procurement Contract by the State and, if applicable, the Office of the State Comptroller (“restricted period”) to other than designated staff unless it is a contract that is included among certain statutory exceptions set forth in State Finance Law §139-j (3) (a). Designated DTF staff, as of the date hereof, are identified in the Preface section of the Request for Proposal. DTF employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the Offerer/Bidder 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 four-year period, the Offerer/Bidder is debarred from obtaining governmental Procurement Contracts. Information related to the Procurement Lobbying Law and the guidelines can be found on the Department’s Procurement website at: <http://www.tax.ny.gov/about/procure>.

Contacting individuals other than the designated contacts listed in the Preface section of this document during the restricted period may result in disqualification of the Bidder’s Proposal – please refer to the Procurement Lobbying Law and the guidelines posted on the Department’s website at: <http://www.tax.ny.gov/about/procure>.

1. Offerer Disclosure of Prior Non-Responsibility Determinations

New York State Finance Law §139-k(2) obligates a Governmental Entity to obtain specific information regarding prior non-responsibility determinations with respect to State Finance Law §139-j. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, an Offerer must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (1) a violation of State Finance Law §139-j or (2) the intentional provision of false or incomplete information to a Governmental Entity. The terms “Offerer” and “Governmental Entity” are defined in State Finance Law §139-k(1). State Finance Law §139-j sets forth detailed requirements about the restrictions on Contacts during the procurement process. A violation of State Finance Law §139-j includes, but is not limited to, an impermissible Contact during the restricted period (for example, contacting a person or entity other than the designated contact person, when such contact does not fall within one of the exemptions).

As part of a Governmental Entity’s responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an Offerer fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no Procurement Contract shall be awarded to any Offerer that fails to timely disclose accurate or complete information under this Section, unless a finding is made that the award of the Procurement Contract to the Offerer is necessary to protect public property or public health or safety, and that the Offerer is the only source capable of supplying the required Article of Procurement within the necessary timeframe. See State Finance Law §§139-j(10)(b) and 139-k(3).

A Governmental Entity must include a disclosure request regarding prior non-responsibility determinations in accordance with State Finance Law §139-k in its solicitation of proposals or bid documents or specifications or Contract documents, as applicable, for Procurement Contracts. The attached form is to be completed and submitted by the individual or entity seeking to enter into a Procurement Contract. It shall be submitted to the Governmental Entity conducting the Governmental Procurement.

Bidder must complete and submit the **Attachment 8, *Offerer Disclosure of Prior Non-Responsibility Determinations*.**

1. Offerer’s Certification of Compliance with State Finance Law §139-k(5)

New York State Finance Law §139-k(5) requires that every Procurement Contract Award subject to the provisions of State Finance Law §§139-k or 139-j shall contain a certification by the Offerer that all information provided to the procuring Governmental Entity with respect to State Finance Law §139-k is complete, true and accurate.

The State reserves the right to terminate any Contract award as a result of this RFP in the event it is found that the certification filed by the Offerer/Bidder in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete.

Each Bidder must complete and submit **Attachment 9, *Offerer’s Certification of Compliance with State Finance Law*** *§****139-k(5)*.**

* + 1. Ethics Compliance

All Bidders/contractors and their employees must comply with Public Officers Law §§73 and 74 to the extent applicable, Chapter 1 of the Laws of 2005, the Procurement Lobbying Reform Act, and other State statutes, rules, regulations and executive orders establishing ethical standards for the conduct of business with New York State. In signing the bid, the Bidder certifies full compliance with those provisions for any present or future dealings, transactions, sales, Contracts, services, offers, relationships, etc., involving New York State and/or its employees. Failure to comply with those provisions may result in disqualification from the bidding process, termination of Contracts, and/or other civil or criminal proceedings as required by law.

Each Bidder must complete and submit **Attachment 10*, Public Officers Law Form*** and **Attachment 11, *Public Officers Law – Post Employment Restrictions*** which addresses business or professional activities by current or past state officers and employees and party officers. These forms shall be made part of the resultant Agreement.

* + 1. Sales and Compensating Use Tax Documentation

Pursuant to Tax Law Section 5-a, Bidders will be required to complete and sign, under penalty of perjury, **Exhibit E, *Contractor Sales Tax Certification Forms*.** Bidders must also submit a copy of the Certificate of Authority, if available, for itself, any affiliates, and any subcontractors required to register to collect state sales and compensating use tax. If Certificates of Authority are unavailable for a particular entity, each such Contractor, affiliate, subcontractor or affiliate of subcontractor must represent that it is appropriately registered with the Department.

**Exhibit E** provides the Contractor Certification Forms and Instructions for completing the forms. ST-220-TD must be filed with and returned directly to the Department address provided on the form. Unless the information upon which the ST-220-TD is based changes, this form only needs to be filed once with the Department. If the information changes for the Contractor, its affiliate(s), or its subcontractor(s), a new form ST-220-TD must be filed with the Department. Completion of the form at the time of bid submission is not required; however, Form ST-220-TD must be filed and returned to the Department upon notification of Contract award.

Form ST-220-CA must also be provided to the Department’s Office of Budget and Management Analysis upon notification of Contract award certifying that the Contractor filed ST-220-TD. Proposed Contractors should complete and return the certification form(s) within two business days of request.

Failure to make either of these filings may render a Bidder non-responsive and non-responsible. Bidders shall take the necessary steps to provide properly certified forms within a timely manner to ensure compliance with the law.

Vendors may call the Department at 1-518-485-2889 for any and all questions relating to Section 5-a of the Tax Law and relating to a company’s registration status with the Department. For additional information and frequently asked questions, please refer to DTF Publication 223 (Questions and Answers Concerning Tax Law Section 5-a) available at the Department’s website: <http://www.tax.ny.gov> under the heading “Forms and Guidance”.

* + 1. Prime Contractors/Subcontractors

The successful Awardee(s) shall act as prime Contractor(s) and be responsible for ensuring Contract performance by their partners, officers, employees, and any other agents or affiliates as well as any other service providers, including any Subcontractors, performing Contract work on Contractor(s) behalf under their Agreement with the State.

Where services are supplied by or through the Contractor(s) under the Agreement, the Contractor(s) assume full integration responsibility for delivery, installation, maintenance, performance and support services for such items, as applicable. The Contractor(s) shall also be responsible for payment of any license fees, rents or other monies due third parties for services or materials provided under this Agreement. The State shall have no responsibility for payment of Subcontractors, or any third-party service providers contracted by or through a Contractor in performance of the Agreement.

If the Bidder proposes to use entities in addition to the Bidder to provide services in response to this RFP, these entities must be specifically identified in the Bidder’s Proposal submission, and are subject to the approval of the State.

The State requires a list of all service providers, including any Subcontractors the Bidder proposes to utilize for the performance of services under any resultant contract, as well as a detailed description of the services to be performed by each identified service provider(s). This information must be provided on the **Attachment 12, *Listing of Proposed PA Service Providers Form***.

* + 1. Bidder-Proposed Changes to Preliminary Base Contract Terms

Proposals should conform to the requirements and conditions set forth in this RFP. Upon notification of Contract award, the chosen Contractor(s) and the State will work to negotiate mutually acceptable terms of Agreement, consistent with the requirements of the RFP and state contracting terms.

* + 1. Request for Exemption from Disclosure

All bids are presumptively available for public inspection. If this would be unacceptable to Bidders, they must apply to the State for trade secret protection of their bid.

In applying for trade secret protection, it would be unacceptable to indiscriminately categorize the entire Proposal as such. The Bidder should point out those sections of the Proposal that are trade secrets and explain the reasons therefore. The Bidder may wish to review with its legal counsel Restatement of Torts, Section 757, comment b, and the cases under the Federal Freedom of Information Act, 5 USC Section 522, as well as the Freedom of Information Law. The State will review applications and agree to requests for trade secret protection, if appropriate.

To obtain trade secret protections, the Bidder must submit with its response in Volume Two, Tab 1 of its Proposal submission (see **Section 7.1** for ***Proposal Content and Organization***), a letter specifically identifying the page number, line or other appropriate designation of the information that is trade secret and explain in detail why such information is a trade secret and should be exempt from disclosure.

* + 1. Encouraging Use of New York State Business in Contract Performance

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and nation. In recognition of their economic activity and leadership in doing business in New York State, bidders/proposers for this contract for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contract. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles.

The Bidder must complete and submit **Attachment 13, *Encouraging Use of New York State Business in Contract Performance*.**

* + 1. Assurance of No Conflict of Interest

The Bidder offering to provide services pursuant to this RFP as a contractor, subcontractor, or consultant, attests that its performance of the Service 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.

The Bidder must complete andsubmit **Attachment 14, *Vendor Assurance of No Conflict of Interest or Detrimental Effect*.**

* + 1. Executive Order No. 177 Certification

In accordance with Executive Order No. 177, the Bidder must certify that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status or other protected status under the Human Rights Law.

The Bidder is responsible for reading, signing and submitting the **Attachment 15, *EO-177 Certification*.**

* + 1. Sexual Harassment Prevention Certification

State Finance Law §139-l requires bidders on state procurements to certify that they have a written policy addressing sexual harassment prevention in the workplace and provide annual sexual harassment training to all their employees and that such policy, at a minimum, meets the requirements of section two hundred one-g of the labor law.

The Bidder must complete and submit**Attachment 16, *Sexual Harassment Prevention Certification*.**

* + 1. Executive Order No. 16 Certification

In accordance with Executive Order No. 16, the Bidder must certify that it does not conduct any commercial activity in Russia or transact business with the Russian Government or with commercial entities headquartered in Russia or with their principal place of business in Russia in the form of contracting, sales, purchasing, investment, or any business partnership.

The Bidder is responsible for reading, signing and submitting the **Attachment 17, *EO-16 Certification*.**

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# Proposal Content and Submission Requirements

The Proposals for the Program Administration Services and Investment Management Services will be submitted separately.

The Bidder should provide a response that clearly and precisely provides all required information. Emphasis should be placed on conformance with the RFP instructions, responsiveness to the RFP requirements and clarity of the intent.

Proposals that do not comply with these instructions or do not meet the full intent of all of the requirements of this RFP may be subject to scoring reductions during the evaluation process or may be deemed non-responsive. To assist Bidders, the State has provided Bidder’s Checklists as **Attachment A** for Program Administration Servicesand **Attachment B** for Investment Management Services. A Proposal that does not provide all of the information requested may be subject to rejection.

The State does not require, nor desire, any excessive promotional material which does not specifically address the response requirements of this RFP.

**Faxes or electronically transmitted Proposals will not be accepted.**

2. 1. Proposal Content and Organization

To facilitate the evaluation process, the Bidder must organize the Proposal into three (3) distinct volumes as follows:

Volume One: Technical Proposal

Volume Two: Administrative Proposal

Volume Three: Financial Proposal

**Volume One Format:**

Volume One should contain a table of contents with page numbers and each section should be tabbed as follows:

1. Tab 1 – Executive Summary
2. Tab 2 – Qualifying Requirements
3. Tab 3 – Technical Requirements

**Volume Two Format:**

* 1. Tab 1 – Bidder’s Checklist and Cover Letter

1. Tab 2 – Administrative Requirements Response Forms

**Volume Three Format:**

This volume must contain:

* For Program Administration Services: **Attachment 18-A**
* For Investment Management Services: **Attachment 18-B-1 (Lot 1)**, **Attachment 18-B-2 (Lot 2)**, **Attachment 18-B-3 (Lot 3)**, and/or **Attachment 18-B-4 (Lot 4)**.

## Proposal Submission

The Bidder must submit one (1) original and two (2) hard paper copies of:

* Volume One: Technical Proposal
* Volume Two: Administrative Proposal
* Volume Three: Financial Proposal

All volumes must be bound separately, be clearly identified and should contain page numbers.

The Bidder should also submit one (1) electronic copy (CD/DVD/Flash Drive) of Volumes One, Two, and Three.

The electronic copy should be encrypted and password protected. The password should be submitted via email to [bfs.contracts@tax.ny.gov](file://dtf-smb/dtf_shared/Share/Obma/BBUDACTG-BPROCURE/CMU/RFP%27s/PENDING%20RFP%27s/dtf_home/P39442/bfs.contracts@tax.ny.gov).

Proposals must be received by the date and time specified in the Schedule of Events.

Bidder Proposals must be enclosed in sealed containers with the following visibly inscribed on the outside of all containers:

Attn: Director, Procurement Services

New York State Department of Taxation and Finance

Procurement Services Unit

Office of Budget and Management Analysis

W. A. Harriman State Office Building Campus

Albany, NY 12227

All Proposals must have a label on the outside of the package or shipping container outlining the following information:

“BID ENCLOSED”

RFP 23-100

[insert service description] Services [and Lot number(s) if applicable]

<*Bid Submission Date and time*>

**Please note: Deliveries by delivery services (e.g., UPS, FedEx, etc.) and/or requiring a signature of receipt should be addressed to the Department’s W.A. Harriman Campus address, however, the delivery service must be instructed to deliver the Bid documents to the following address:**

90 Cohoes Avenue

Green Island, NY 12183

Only under circumstances identified in **Section 6.1.16, *Reserved Rights*** will the State consider any Proposals received after the time and date specified in the Schedule of Events. In the event a package is not labeled properly as described in this Section, the State reserves the right to inspect the contents of the package(s) to determine the contents. The Bidder shall have no claim against the State arising from such inspection and such inspection shall not affect the validity of the procurement. Notwithstanding the State’s right to inspect the contents of the package(s), the Bidder assumes all risk of late delivery associated with the Bid not being identified, packaged or labeled in accordance with the foregoing requirements.

# Proposal Evaluation

Pursuant to Article XI of the State Finance Law, the basis for contract award under this RFP will be “best value,” optimizing quality, cost and efficiency among responsive and responsible Bidders.



## Proposal Clarification

The State reserves the right to require a Bidder to provide clarification and validation of its Proposal through any means the State deems necessary. Failure of a Bidder to cooperate with State efforts to clarify or validate Proposal information may result in the Proposal being labeled as non-responsive and given no further consideration.

## Evaluation Process Overview

The Proposals for the Program Administration Services and each Lot of the Investment Management Services will be evaluated separately. There will be three (3) phases of the evaluation process.

### Phase One Evaluation – Proposal Screening and Qualifying Requirements Evaluation

**A. Proposal Screening**

All timely submitted Proposals will be evaluated in Phase One.

Each Proposal will be screened for completeness and conformance with the State’s requirements for Proposal submission as specified in this RFP. Proposals which do not meet the requirements may be labeled as non-responsive and may not be given further consideration.

**B. Qualifying Requirements (Pass/Fail)**

All Proposals that pass the Proposal Screening will be evaluated to determine if the Bidder meets the qualifying requirements specified in **Section 3, *Qualifying Requirements***. If all qualifying requirements are not met, the Bidder’s Proposal will be labeled non-responsive and will not be given further consideration.

The Bidder must also sign and submit **Attachment 4, *Bidder Attestation Response Form****.*

All Proposals that pass this stage of the evaluation process will be further evaluated in Phase Two.

### Phase Two Evaluation – Technical and Financial Evaluation

Bidders’ technical proposals and financial proposals will be evaluated and scored concurrently and separately.

* + 1. **Technical Evaluation (70 points)**

The technical evaluation will be based on the responses provided to the requirements detailed in **Section 4, *Technical Proposal Response Requirements***.

* + 1. **Financial Evaluation (30 points)**

Bidders’ financial proposals will be evaluated and scored based solely upon the content set forth in **Attachment 18, *Financial Response Forms*** submitted for the particular Services being bid (PA Services or IM Services) and, with respect to IM Services, based on a review of the financial proposals submitted for the particular Lot(s) the Bidders propose.

The highest-ranked Bidder after this stage of the evaluation process will be further evaluated in Phase Three.

### Phase Three Evaluation – Financial Stability (Pass/Fail)

The State will conduct an evaluation of the financial stability of the entity(ies) that submitted the highest-ranked Bid, as outlined in **Section 2.1.5, *Financial Stability***. In the event that the entity(ies) does not pass this evaluation, the State will conduct a financial stability evaluation on the entity(ies) that submitted the next highest-ranking Bid.

## Final Ranking, Contract Award, and Point Distribution

The contract will be awarded to the Bidder whose Proposal obtains the highest aggregate score. The table below summarizes the evaluation point distribution for the PA Services and each Lot of the IM Services:

|  |  |
| --- | --- |
| **Evaluation Component** | **Points** |
| Technical Evaluation | 70 |
| Financial Evaluation | 30 |
| Total Aggregate Score | 100 |

In the event that Bidders receive the same final score, the State will use the following tie-breaking mechanisms, in the order listed, to determine final ranking:

* The Bidder’s Financial Score
* Determination by the Chair of the Board

1. See RFP Section 1.4 for further details and Program estimates. [↑](#footnote-ref-2)
2. A copy of the Act is attached as Exhibit A to the RFP. [↑](#footnote-ref-3)
3. All figures in Section 1 of this RFP have been rounded to the nearest hundred. Totals may not add up due to rounding. [↑](#footnote-ref-4)
4. Due to data limitations, the model does not account for the impact of the Covid 19 pandemic on business formations or dissolutions or labor force participation when making these forward projections. [↑](#footnote-ref-5)
5. Dushi, Irena, Howard Iams, and Jules Lichtenstein. “Retirement Plan Coverage by Firm Size: An Update.” Social Security Bulletin Vol. 75, No. 2, May 1, 2015. <https://www.ssa.gov/policy/docs/ssb/v75n2/v75n2p41.html>. [↑](#footnote-ref-6)
6. The Dushi et al. data is from 2015, but remains one of the most reliable sources of publicly available administrative tax matched workplace plan coverage data and while it is national in scope, previous research based on U.S. Census survey data has shown that New York has comparable levels of workplace plan access and participations relative to the national average (see: <https://www.pewtrusts.org/en/research-and-analysis/data-visualizations/2016/employer-based-retirement-plan-access-and-participation-across-the-50-states>). [↑](#footnote-ref-7)
7. The draft IPS is attached as **Exhibit B** to the RFP; it has not yet been approved by the Board. [↑](#footnote-ref-8)
8. The ‘to’ glidepath has an asset mix that remains static after retirement age and the ‘through’ glidepath adjusts equity exposure beyond retirement age. [↑](#footnote-ref-9)