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| **BUREAU OF FISCAL SERVICES**  **Procurement Unit** |  |  |

**April 9, 2019**

**Request for Proposals (RFP) 18-104 Financial Institution Data Match (FIDM) Services**

**Responses to Bidder Questions and Amendment #4**

To All Potential Bidders:

Attached are the Department’s Responses to Bidder Questions received for the above referenced RFP.

Additionally, the Department is issuing Amendment #4 as clarification to:

* Amend Attachment 1 – Bidder’s Checklist
* Add Exhibit 6 – Financial Institution Data Match Set-Up Sheet

Corrected pages are attached to this document. All additions are made in green text.

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

| **#** | **RFP Section** | **RFP Page #** | **Question** | **Response** |
| --- | --- | --- | --- | --- |
| 1 | Preface, B Proposal Questions/ Inquiries | 6 | Can DTF confirm that all objections, proposed changes, and/or additions to the terms and conditions and Exhibit E, Preliminary Base Contract submitted during the Question and Answer period will be confidential and not publicly shared? | All Responses to Bidder questions will be posted on the Department’s website. |
| 2 | Section B | 6 | General: Could the Department provide a copy of the current service Agreement, including pricing? | The information of the current service Agreement should be requested by following the Freedom of Information Law (FOIL) process. Information is available at: https://www.tax.ny.gov/help/contact/foil\_requests.htm |
| 3 | 1.3 | 10 | Which financial institution types (i.e. banks, credit unions, security firms, etc.) are required to participate in the NY DTF FIDM Program? | Participation in the DTF FIDM program is governed by NYS Tax Law Article 36 § 1701. Financial institution is defined in this article as “any financial institution authorized or required to participate in a financial institution data match system or program for child support enforcement purposes under federal or state law.” |
| 4 | 1.3 Background | 10 | Can DTF provide a breakdown of how many FIs are currently reporting via Method 1 versus Method 2? | At present: Method 1 - 211 FIs, Method 2 - 499 FIs |
| 5 | 1.3 Background | 10 | Will DTF provide the list of Tax Debtors to be used by FIs for Method 2 using the Request File format? | Yes. During the development phase, the Department will establish a schedule to be mutually agreed upon by the Department and the Contractor for the electronic transmission of files between the Department and the Contractor. The Contractor must adhere to this schedule of file transfers. Files must be processed timely. The Contractor must store a minimum of 12 generations of scheduled Contractor to DTF Return files. **Exhibit 4, Request File Layout**, represents the file layout of the data the Contractor will be required to process. **Exhibit 5, Return File Layout**, represents the file layout of the data the Contractor will be required to provide to DTF. The file layouts and transmission schedule will be finalized during the development phase. For examples of current file layouts exchanged between the Bidder and the FIs, Bidders may also refer to the specifications located at http://www.acf.hhs.gov/programs/cse/fct/fidm/dataspecs.pdf for further details. |
| 6 | 1.4 Scope of Services | 10 – 12 | Can DTS provide details on what constitutes a name match? Must it match exactly, or is the match based on a certain number of matched characters? For example, would Thomas Smith and Tom Smith be considered a match? | Per the Financial Data Match Specifications Handbook - "Matches identified by a corresponding SSN/EIN should be reported by the FI even if the name does not match the inquiry record." |
| 7 | 1.4 Scope of Services | 11 | The RFP states that “The Contractor will be required to “Obtain signatures on a Memorandum of Agreement (MOA) between the FIs and DTF. DTF will draft a new MOA and then provide it to the Contractor, who will coordinate the execution of the agreement with all participating FIs to start the match process. The Contractor will also execute MOAs with any FIs that join the program during the life of the Contract.”  Does the MOA contain a data sharing/data use agreement? Will DTF provide a sample MOA? | The MOA is a data sharing/data use agreement between the Financial Institution and the Department. The Department declines to provide a sample MOA at this time. |
| 8 | 1.4 Scope of Services | 11 | Can DTF provide a breakdown of the number of FIs reporting via encrypted CD-ROMs, diskettes, electronic transmission via secure FTP, mail, and other means? | All FIs, except two, report electronic transmission through FTP using a significant user/password, which changes each quarter for each FI. The two exceptions use paper submission which is then inputted by the IT Manager. |
| 9 | 1.4 Scope of Services | 11 | Can DTF provide the number of escalated issues, as well as the number of times attorneys have been involved in issue resolution, for each of the past 5 years? | We approximate that attorney involvement was required 2-3 times per year. |
| 10 | 1.4 5th bullet | 11 | The RFP states “The Department will expect the Contractor to provide attorneys, if determined necessary by the Department, to respond to legal issues brought to this program by attorneys of the FIs.”  Will the State’s attorneys be involved in this process? Could the State expand on its criteria for determining the necessity of the Contractor providing attorney(s) to be involved in any FI legal issues? In addition, what is the State’s expectation of the level of service required by the Contractor to resolve such issues? Lastly, at what point will the State use its influence and attorneys to assist in resolving any issue? | Yes, the State's attorneys will be involved. The Contractor's attorneys may reasonably be asked to advise on eligibility and legal requirements concerning participation in the program, as well as protection and security of taxpayer and client data. The State will use its attorneys to assist in resolving issues through oral communication and writing. |
| 11 | 1.4 Scope of Services | 12 | Can DTS provide the average number of inbound and outbound calls the vendor can expect each month, along with the average handle and hold time? | Approximately eight calls per month from participating FIs. Call durations are unknown. |
| 12 | 1.4 Scope of Services | 12 | Is there an existing toll free and/or local phone number that will transition to the selected vendor? | No. |
| 13 | 1.4 Scope of Services | 12 | Can DTF provide the number of different file formats currently received from DTF? Can DTF provide copies of all formats? | See **Exhibit 4, Request File Layout**.  As stated in **Section 1.4, Scope of Services**, the Contractor will be required to “work with NYS Office of Information Technology Services (OITS) staff to establish the necessary data connections and file format to obtain the file of individuals and businesses and to return a single file as referenced in **Section 3.7.4** to DTF.” |
| 14 | 1.5 Implementation | 12 | Can DTF clarify the date the six month implementation period begins? Does it begin May 2, 2019 (intent to award date), May 14, 2019 (contract signature date), or August 1, 2019 (anticipated contract start date)? | The implementation will begin once a contract has been approved by the NYS Office of the State Comptroller, currently anticipated to be August 1, 2019. |
| 15 | 3.1 | 15 | Bidder Experience and Reference Requirements is missing from the Bidder Checklist. Should that be included in the proposal submission? | The Bidder should submit their response to **Section 3, Requirement 3.1**, in accordance with the information and details presented on **Attachment B, Experience and Reference Response Form**.  See **Attachment 1 - Bidder's Checklist**, Volume One, Tab 2 - Qualifying Requirements, Attachment B - Experience and Reference Response Form. |
| 16 | 3.4 | 16 | Reporting is not included in the Bidder Checklist. Is this section required in the RFP response? | The Bidder is required to complete **Attachment A, Bidder Attestation** to attest it has read, understands and agrees to provide the services as specified in **Section 3**. There are no additional submission requirements specific to **Section 3, Requirement 3.4**. |
| 17 | 3.6 | 17 | Disengagement is not included in the Bidder Checklist. Is this section required in the RFP response? | The Bidder is required to complete **Attachment A, Bidder Attestation** to attest it has read, understands and agrees to provide the services as specified in **Section 3**. There are no additional submission requirements specific to **Section 3, Requirement 3.6**. |
| 18 | 3.7 IT System Requirements | 18 – 20 | Is there any specific requirement to the office or data storage location? | As stated in the RFP, **Section 1.1, Purpose**, “The performance of all work under the Contract resulting from this RFP must be within the boundaries of the continental United States.” In addition, **Exhibit 3**, Sections 4 and 5 also state requirements regarding data storage location. |
| 19 | 3.7.4 IT System Requirements, File Processing | 21 | How often does DTF expect to send a request file to Contractor? | Quarterly (Mar, Jun, Sep, Dec) |
| 20 | Exhibit 4. Financial Requirements, C. System Enhancement Services Fees – Post Development Fees | 21 | We note that HBITS maximum hourly rates are $69.09, $70.93 and $74.66 for the Project Manager, Programmer, and Tester, respectively. Upon review of the various contracts that form the HBITS arrangement, we observe that these rates represent augmentation work. We believe this arrangement is not comparable to the nature of work required for requested changes to our system in which we are solely responsible for all processes, including management and oversight. Additionally, the skill level required for requested changes exceed the mid-level assumption.   Would DTF consider adjusting the maximum rates to the maximum markup by any one contractor under the HBITS arrangement? Alternatively, would DTF consider adjusting the skill level to Expert? | The Department declines to amend the RFP.   In the past six years, the Department has not requested any enhancements in relation to the FIDM services. |
| 21 | 5.2.6 | 30 | Is Exhibit F required to be submitted with the proposal if the MWBE participation requirement is 0%? If so, where should we provide Exhibit F as it isn’t included in the Bidder Checklist? | Yes, **Exhibit F** must be returned with the proposal submission. **Exhibit F, Minority and Women-Owned Business Enterprises - Equal Employment Opportunity Policy Statement**, contains equal employment opportunity requirements as well as MWBE requirements. Where the goals are 0% or information is not applicable, the Bidder should complete the form accordingly. See RFP Amendment #4 for Amended **Attachment 1, Bidder's Checklist**. |
| 22 | 5.2.6 | 30 | The RFP states “This requirement does not apply to: (i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.”  Please confirm that this section does not apply if Bidder will not have any employees working in NY State? | The requirement does not apply to employment outside New York State. |
| 23 | 5.2.26 | 41-42 | Bidder has a written sexual harassment prevention policy, and provides biennial sexual harassment training. Since Bidder will not have any employees in New York State, will the State allow an exception to this requirement? | Bidders are required to submit **Attachment 19, Sexual Harassment Prevention Certificate** with their proposal submission. 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 (that meets the Department of Labor’s model policy and training standards) to all its employees.  Bids that do not contain the certification will not be considered for award; provided however, that if the Bidder cannot make the certification, the Bidder may provide a signed statement with their bid detailing the reasons why the certification cannot be made. The Department will assess the reasonableness of the Bidder’s signed statement and determine if the information provided is acceptable. |
| 24 | Appendix A, Standard Clauses for NYS Contracts | 6 | Section 12. EEO opportunities for minorities and women.   Please clarify if an affirmative action plan is required for a vendor who has no employees working in the State of New York. | The Department confirms that Section 312 of the NYS Executive Law does not apply to Contractors with employees working exclusively outside of New York State. |
| 25 | Appendix A – Standard Clause for NYS Contracts | Section 12, Pages 6-7 | According to this Section, Section 312 does not apply to “(i) work, goods, or services unrelated to the Contract; or (ii) employment outside New York State.” Please clarify if an affirmative action plan is required for a vendor will have no employees working in the State of New York. | The Department confirms that Section 312 of the NYS Executive Law does not apply to Contractors with employees working exclusively outside of New York State. |
| 26 | Appendix A – Standard Clause for NYS Contracts | Section 23, page 9 | This section provides that “…in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.”  Will the State provide an employment report template for bidder to fulfill this requirement? | The Department has provided a template of this annual report as **Exhibit C, Contractor’s Annual Employment Report – Form B**.  Additionally, Bidders should submit **Exhibit B,** **State Consultant Services – Contractor’s Planned Employment – Form A** with their proposal submission. See RFP Amendment #4, Amended **Attachment 1, Bidder’s Checklist** for submission requirements.  See RFP **Section 5.2.23, Consultant Disclosure Requirements Pursuant to Laws of 2006, Chapter 10**, for additional details on these two forms. |
| 27 | Attachment 18 – Sexual Harassment Prevention Certificate | 30 | Bidder has a written sexual harassment prevention policy, and provides biennial sexual harassment training. Since Bidder will not have any employees in New York State, will the State allow an exception to this requirement? | Bidders are required to submit **Attachment 19, Sexual Harassment Prevention Certificate** with their proposal submission. 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 (that meets the Department of Labor’s model policy and training standards) to all its employees.  Bids that do not contain the certification will not be considered for award; provided however, that if the Bidder cannot make the certification, the Bidder may provide a signed statement with their bid detailing the reasons why the certification cannot be made. The Department will assess the reasonableness of the Bidder’s signed statement and determine if the information provided is acceptable. |
| 28 | Attachment E – Outreach Plan Response Form | 39 | Point 3 provides “Bidder agrees that it will, on an annual basis, confirm that the contact person’s for each FI is still accurate.”   Will the State provide bidder with the annual form to fulfill this requirement? | See RFP Amendment #4 for **Exhibit 6 – Financial Institution Data Match Set-Up Sheet**. |
| 29 | RFP Exhibit E, Article VII. Secrecy Provisions, C. Federal Secrecy Provisions, I. Performance #2: | 20 | Upon review of Section 5.1.1 Background Investigation Minimum Requirements of IRS Publication 1075, please clarify does the Department require a “Tier 2 level investigation” or does the Department provide their own background check policy/procedures for us to follow?  If the Department provides its own policy/procedures, please provide details regarding the policy/procedures. | The Contractor and the Contractor’s employees with access to or who use Federal Tax Information (FTI) must meet the requirements defined in IRS Publication 1075. |
| 30 | Exhibit E – Article IX | 24 | Bidder respectfully requests that the State amend the first paragraph of this section to clarify bidder’s ownership of proprietary material. This clarification is necessary to provide bidder a reasonable protection of its proprietary material used in connection with this project. Please see below the suggested language to address this concern:   “The State retains sole ownership and intellectual property rights in and to all information, data, databases, data compilations, reports, charts, graphs, diagrams, or other information provided or made accessible by the State to the Contractor, or created by the Contractor pursuant to the Agreement, except for Contractor’s prior proprietary, trademarked or patented materials, even if utilized for this project. The State shall not have any residual rights to said materials beyond this Agreement.” | The Department declines to amend the Preliminary Base Contract at this time. Per **Section 5.2.20** of the RFP, Bidders are allowed to provide non-material proposed changes to the Preliminary Base Contract with their proposal submission. |
| 31 | Exhibit E – Article X | 25 | Bidder respectfully requests that the State amend point 4 to more clearly define the scope of access to personnel and records:  “To terminate the Agreement should the Contractor not cooperate with a State investigation. This includes, but is not limited to, not providing immediate and unfettered access to personnel and records relating to this Agreement, as set forth in this Agreement.” | The Department declines to amend the Preliminary Base Contract at this time. Per **Section 5.2.20** of the RFP, Bidders are allowed to provide non-material proposed changes to the Preliminary Base Contract with their proposal submission. |
| 32 | Exhibit E – Article X | 25 | Bidder respectfully requests that the State amend point 4 to more clearly define the scope of access to personnel and records:   “To terminate the Agreement should the Contractor not cooperate with a State investigation. This includes, but is not limited to, not providing immediate and unfettered access to personnel and records relating to this Agreement, as set forth in this Agreement.” | The Department declines to amend the Preliminary Base Contract at this time. Per **Section 5.2.20** of the RFP, Bidders are allowed to provide non-material proposed changes to the Preliminary Base Contract with their proposal submission. |
| 33 | Exhibit E, Article XI.A.2 | 26 | The RFP states that “If the Contractor fails to timely implement the Disaster Recovery Plan necessary to recover the Services, then the Contractor shall reimburse for any losses or damages caused thereby.”   Does DTF have a requirement for RPO/RTO? Can DTF also provide the timeline for implementation of the Disaster Recovery Plan? | The Contractor must provide a sufficient level of business continuity, disaster recovery, and fail-safe operations to ensure that disruptions to services are minimized with no negative impact to the State’s revenue. |
| 34 | Exhibit E – Article XIV | 33 | Subsection A.2.j provides that a material breach for which there is no cure period includes where “Contractor fails to submit and/or use such MWBE Utilization Plan, if applicable.  Please confirm that since there is no MWBE requirement in this RFP, a MWBE Utilization Plan is not required | The Department confirms that a MWBE Utilization Plan is not required to be submitted. |
| 35 | Exhibit E – Article XV | 34 | Bidder respectfully requests that the State amend the last sentence of the first paragraph of Section A. to clarify that bidder shall not be required to indemnify the State if the liability was caused by actions outside the bidder’s control. This exception is necessary to allow bidder a controlled and reasonable risk management approach to the Agreement and the services provided by bidder:   “Contractor shall not be obligated to defend or indemnify to the extent for that portion of any claim, loss or damage arising hereunder is solely due to the negligence or willful misconduct of the DTF.” | The Department declines to amend the Preliminary Base Contract at this time. Per **Section 5.2.20** of the RFP, Bidders are allowed to provide non-material proposed changes to the Preliminary Base Contract with their proposal submission. |
| 36 | Exhibit 3.13 – Access to Security Logs and Reports | 65 | The RFP states that “Upon request, the Contractor shall provide reports to NYSDTF in a format as specified in the Contract.”   Can DTF confirm that the reports refer to application audit logs? In what format should these reports be provided? | This references any log or report applicable to FIDM data security, which may include, application audit logs. The format will be agreed to by both the Department and the Contractor at the time when the Department makes a request for the logs and/or reports. |
| 37 | Exhibit 3.16 – Business Continuity/ Disaster Recovery (BC/DR) Operations | 65 | The RFP states that “The Contractor shall provide a business continuity and disaster recovery plan to the NYSDTF Project Coordinator within 30 days of receiving the Notice to Proceed.”   Can DTF provide an approximate timeline for the Notice to Proceed in relation to the anticipated contract start date outlined in the RFP? | The Department expects to provide the selected Contractor a Notice to Proceed shortly after receiving notification of contract approval and execution by the Office of the State Comptroller. |
| 38 | Exhibit 3, #14 – Contractor Performance Audit | 67 | Please define the type of “independent audit” required (i.e. SSAE SOC 1 Type 1)? | The Contractor is required to provide a SOC report that attests to appropriate controls over transmission, processing and storage of that data. The Contractor must provide (and continue to provide on request any time during the term of the contract) a SOC report of controls specific to the contracted service. |
| 39 | Exhibit 3, #14 – Contractor Performance Audit | 67 | If a third party already performs an SSAE 18 SOC 2 Type 2 audit on the vendor’s Data Center, would the State accept that report annually? | The Contractor is required to provide a SOC report that attests to appropriate controls over transmission, processing and storage of that data. The Contractor must provide (and continue to provide on request any time during the term of the contract) a SOC report of controls specific to the contracted service. |

**Attachment 1 – Bidder’s Checklist**

**Volume One**

**Tab 1 – Executive Summary**

**Tab 2 – Qualifying Requirements**

Attachment A – Bidder Attestation

Attachment B – Experience and Reference Response Form

Attachment C – Qualifying Insurance Response Form

**Tab 3 – Technical Requirements**

Attachment D – Implementation Plan Response Form

Attachment E – Outreach Plan Response Form

Attachment F – Organization and Staffing Plan Response Form

Attachment G – IT System Requirements Response Form

**Volume Two**

**Tab 1 – Cover Letter**

Bidder-Proposed Changes to Contract Terms, if applicable

Request for Exemption from Disclosure, if applicable

**Tab 2 – Administrative Requirements Response Forms**

Attachment 1 – Bidder’s Checklist

Attachment 4 – Staffing Plan

Attachment 5 – Vendor Responsibility Response Form

Attachment 6 – Designation of Prime Contact

Attachment 7 – Non-Collusive Bidding Certification

Attachment 8 – Offerer Disclosure of Prior Non-Responsibility Determinations

Attachment 9 – Offerer’s Certification of Compliance with State Finance Law 139-k(5)

Attachment 10 – DTF-202 New York State Department of Taxation and Finance Agreement to Adhere to the Secrecy Provisions of the Tax Law and the Internal Revenue Code

Attachment 11 – Acknowledgement of Confidentiality of Internal Revenue Service Tax Return Information and Internal Revenue Code Selected Confidentiality Provisions Pertaining to Contractors (Technology Services)

Attachment 12 – Public Officers Law Form

Attachment 13 – Public Officers Law – Post Employment Restrictions

Attachment 14 – Listing of Proposed Subcontractors Form

Attachment 15 – Encouraging Use of New York State Businesses in Contract Performance

Attachment 16 – Vendor Assurance of No Conflict of Interest or Detrimental Effect

Attachment 17 – Certification of Non-Discrimination Practices

Attachment 18 – Sexual Harassment Prevention Certification

Exhibit B – State Consultant Services – Contractor’s Planned Employment – Form A

Exhibit F – Minority and Women-Owned Business Enterprises – Equal Employment Opportunity Policy Statement

**Volume Three**

Attachment 19 – Financial Response Form

**Exhibit 6 – Financial Institution Data Match Set-Up Sheet**