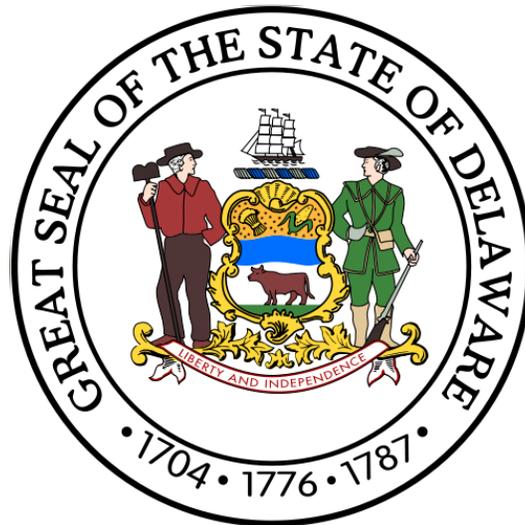


State of Delaware



Department of Justice

Carvel State Building
820 N. French Street, 6th Floor
Wilmington, Delaware 19801
Telephone (302) 577-8400

**Delaware Department of Justice
Request for Qualifications for Licensed Clinical
Social Worker Services for Insurance Coverage
for Substance Abuse Treatment**

RFP Number: 091217DOJ

RFP Closing: September 26, 2017; 5:00 PM EST

STATE OF DELAWARE
DEPARTMENT OF JUSTICE

**REQUEST FOR PROPOSALS FOR PROFESSIONAL SERVICES
QUALIFIED LICENSED CLINICAL SOCIAL WORKER SERVICES
ISSUED BY DELAWARE DEPARTMENT OF JUSTICE
CONTRACT NUMBER 090817DOJ**

Contents:

- I. Overview
- II. Scope of Services
- III. Required Information
- IV. Professional Services RFP Administrative Information
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I. Overview

A. Executive Summary

Pursuant to House Bill No. 100, signed into law by Governor Carney on May 30, 2017, the Department of Justice (“DOJ”) is authorized to make expenditures from the DOJ’s Consumer Protection Fund to retain experts to advise and assist the DOJ for the purpose of helping ensure that eligible individuals with private or public health insurance coverage who are denied adequate coverage for substance abuse treatment, are able to challenge that denial of coverage even if they may lack the financial means to do so on their own.

Through this RFP, the DOJ intends to create a list of licensed clinical social workers (“Licensed Clinical Social Workers”) who can assist the DOJ in evaluating the information submitted by individuals who are seeking assistance from the DOJ in matters involving the existence or scope of private or public insurance coverage for substance abuse treatment, and, if appropriate, facilitate referrals to substance abuse treatment providers and report clinical information to insurance carriers for purposes of ensuring coverage for treatment and placement. The DOJ intends to create a list of Licensed Clinical Social Workers interested in providing such assistance. The term of the designations made pursuant to this RFP will be two years, with the possibility of two one-year extensions dependent upon whether the laws as modified by HB 100 are still in effect and the ability of the Consumer Protection Fund to pay for such services. More information is set forth below in the Project Scope and Objectives.

This RFP will define the scope of the work to be performed, the requirements Applicants must address, the method for response and the administrative requirements that must be followed. The DOJ will advise potential Applicants of changes to any dates as may be necessary. The DOJ also reserves the right to modify and/or cancel this solicitation at any time during the RFP process.

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B. Time Table

The State of Delaware Department of Justice, seeks professional services to select qualified licensed clinical social workers. This request for proposals (“RFP”) is issued pursuant to 29 *Del. C.* §§ [6981](#) and [6982](#).

The proposed schedule of events subject to the RFP is outlined below:

Public Notice	Date: September 12, 2017
Deadline for Receipt of Proposals	Date: September 26, 2017 at 5:00 PM (EDT)
Invitations to Selected Applicants for Oral Presentation and Interviews	Date: September 29, 2017
Selected Applicants Oral Presentation And Interviews	Date: October 7-11, 2017
Contracts with Selected Applicants Completed	Date: October 20, 2017

Each proposal must be accompanied by a transmittal letter which briefly summarizes the proposing Applicant’s interest in providing the required professional services. The transmittal letter must also clearly state and justify any exceptions to the requirements of the RFP which the applicant may have taken in presenting the proposal. (Applicant exceptions must also be recorded on Attachment 1).

Furthermore, the transmittal letter must attest to the fact, at a minimum, that the Vendor shall not store or transfer non-public State of Delaware data outside of the United States. For technology related solicitations, Vendors may refer to the Delaware Department of Technology and Information identified terms and conditions included in this solicitation.

The DOJ reserves the right to deny any and all exceptions taken to the RFP requirements.

II. Scope of Services

A. Project Scope and Objectives

Pursuant to House Bill No. 100, signed into law by Governor Carney on May 30, 2017, the DOJ is charged with providing assistance to eligible individuals with private or public health insurance coverage who are denied adequate coverage for substance abuse treatment, and who may lack the financial means to challenge that denial of coverage on their own.

In order to do so, the DOJ will require assistance from Licensed Clinical Social Workers who have experience in assisting individuals with private or public health insurance obtain adequate and appropriate coverage for substance abuse treatment under their insurance plans

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(“Subject Matter Area”). This includes, but is not limited to, experience interacting with substance abuse treatment providers to facilitate referrals and ensure access to treatment, and with insurance carriers to ensure that payment for such treatment is covered. The role that Licensed Clinical Social Workers will play with the DOJ is an important one, because there can be many barriers to facilitating substance use disorder treatment, and in order to get past those barriers it is essential to have an effective understanding of “utilization management”—evaluating the appropriateness and medical necessity of health care services according to evidence-based and peer-reviewed guidelines or criteria—in the substance abuse disorder context. Licensed Clinical Social Workers retained pursuant to this RFQ will need to perform clinical assessments based on information submitted from eligible individuals seeking assistance obtaining insurance coverage, as well as other sources, in order to assess the appropriateness and medical necessity of the substance abuse treatment, and the appropriate level of care, using evidence-based and peer-reviewed criteria designated by the American Society of Addiction Medicine (“ASAM”).

Through this RFP, the DOJ intends to create a list of Licensed Clinical Social Workers who can assist the DOJ in evaluating the information submitted by individuals who are seeking assistance from the DOJ in matters involving the existence or scope of private or public insurance coverage for substance abuse treatment, and if appropriate facilitate referrals to substance abuse treatment providers and reporting clinical information to insurance carriers for purposes of ensuring coverage for treatment and placement.

While each Selected Applicant will negotiate a contract with the DOJ, there is no guaranteed amount of time or money that will be associated with this project as it is not known how many eligible individuals will apply for assistance through this program.

B. Procedures

Provided that there are sufficient funds available in the DOJ’s Consumer Protection Fund, the Deputy Attorney General assigned to act as the Coordinating Attorney shall, upon making a preliminary determination that a person may be an eligible individual who is eligible to receive assistance under HB 100, deliver to a selected and available Licensed Clinical Social Worker all information submitted by the person seeking assistance in challenging the denial of adequate coverage for substance abuse treatment. The Licensed Clinical Social Worker will be expected to review the information provided and discharge the responsibilities set forth in Section 1.01 above. Costs for the work performed by the Licensed Clinical Social Worker will be paid for by the DOJ out of available funds in the Consumer Protection Fund .

III. Required Information

The following information shall be provided in each proposal in the order listed below. Failure to respond to any request for information within this proposal may result in rejection of the proposal at the sole discretion of the DOJ.

A. Minimum Requirements

1. Provide proof of Delaware license for clinical social worker.

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2. Vendor shall provide responses to the Request for Proposal (RFP) scope of work and clearly identify capabilities as presented in the General Evaluation Requirements below.
3. Complete all appropriate attachments and forms as identified within the RFP.

B. General Evaluation Requirements

1. Qualifications and experience of the Applicant in the Subject Matter Area
 - a. Outline the Applicant(s) qualifications including education to demonstrate qualifications for interaction with insurance companies and/or with substance abuse disorder or other drug addictions.
 - b. Outline the Applicant(s) experience with interacting with insurance companies and/or with substance abuse disorder or other drug addictions.
2. Proposed methodology and work plan, soundness of approach and understanding of the needs of eligible individuals
 - a. Provide a detailed description of the proposed methodology and work plan for addressing the work outlined in this RFP.
3. Demonstrated ability to perform the services referred to in Section 1 above
 - a. Provide a description of the Applicant(s) ability to perform the required services.
4. Billing rates and fee arrangements;
 - a. Provide billing rates and fee arrangements
 - b. DOJ will consider alternative billing/fee arrangements

C. Contract Requirements

1. The Selected Applicants shall furnish the Agency with proof of State of Delaware Business Licensure.
2. Certificate of insurance demonstrating proof of type of insurance and the amount of insurances that meets or exceeds the insurance requirements

IV. Professional Services RFP Administrative Information

A. RFP Issuance

1. Public Notice

Public notice has been provided in accordance with 29 *Del. C.* [§ 6981](#).

2. Obtaining Copies of the RFP

This RFP is available in electronic form through the State of Delaware Procurement website at www.bids.delaware.gov . Paper copies of this RFP will not be available.

3. Assistance to Vendors with a Disability

Vendors with a disability may receive accommodation regarding the means of communicating this RFP or participating in the procurement process. For more

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information, contact the Designated Contact no later than ten days prior to the deadline for receipt of proposals.

4. RFP Designated Contact

All requests, questions, or other communications about this RFP shall be made in writing to the DOJ. Address all communications to the person listed below; communications made to other State of Delaware personnel or attempting to ask questions by phone or in person will not be allowed or recognized as valid and may disqualify the vendor. Vendors should rely only on written statements issued by the RFP designated contact.

Christian Douglas Wright
Director of Consumer Protection
Deputy Attorney General
Delaware Department of Justice
820 N. French Street, 5th Floor
Wilmington, Delaware 19801
Direct Dial: (302) 577-8944
Email: christian.wright@state.de.us

To ensure that written requests are received and answered in a timely manner, electronic mail (e-mail) correspondence is acceptable, but other forms of delivery, such as postal and courier services can also be used.

5. Consultants and Legal Counsel

The DOJ may retain consultants or legal counsel to assist in the review and evaluation of this RFP and the vendors' responses. Applicants shall not contact the DOJ's consultant or legal counsel on any matter related to the RFP.

6. Contact with State Employees

Direct contact with State of Delaware employees other than the DOJ Designated Contact regarding this RFP is expressly prohibited without prior consent. Vendors directly contacting State of Delaware employees risk elimination of their proposal from further consideration. Exceptions exist only for organizations currently doing business in the State who require contact in the normal course of doing that business.

7. Organizations Ineligible to Submit a Proposal

Any individual, business, organization, corporation, consortium, partnership, joint venture, or any other entity including subcontractors currently debarred or suspended is ineligible to submit a proposal. Any entity ineligible to conduct business in the State of Delaware for any reason is ineligible to respond to the RFP.

8. Exclusions

The Proposal Evaluation Team reserves the right to refuse to consider any proposal from a vendor who:

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- a. Has been convicted for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of the contract or subcontract:
- b. Has been convicted under State or Federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offense indicating a lack of business integrity or business honesty that currently and seriously affects responsibility as a DOJ contractor:
- c. Has been convicted or has had a civil judgment entered for a violation under State or Federal antitrust statutes:
- d. Has violated contract provisions such as;
 - 1) Knowing failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - 2) Failure to perform or unsatisfactory performance in accordance with terms of one or more contracts;
- e. Has violated ethical standards set out in law or regulation; and
- f. Any other cause listed in regulations of the State of Delaware determined to be serious and compelling as to affect responsibility as a DOJ contractor, including suspension or debarment by another governmental entity for a cause listed in the regulations.

B. RFP Submissions

1. Acknowledgement of Understanding of Terms

By submitting a proposal, each vendor shall be deemed to acknowledge that it has carefully read all sections of this RFP, including all forms, schedules and exhibits hereto, and has fully informed itself as to all existing conditions and limitations.

2. Proposals

To be considered, all proposals must be submitted in writing and respond to the items outlined in this RFP. The DOJ reserves the right to reject any non-responsive or non-conforming proposals. Each proposal must be submitted with 3 paper copies delivered to the DOJ office as outlined below and 1 electronic copy submitted by email to RFP.Legal@state.de.us. Please provide a separate electronic pricing file from the rest of the RFP proposal responses.

All properly sealed and marked proposals are to be sent to the DOJ and received no later than **5:00 PM (Local Time) on September 26, 2017**. The Proposals may be delivered by Express Delivery (e.g., FedEx, UPS, etc.), US Mail, or by hand to:

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Christian Douglas Wright
Director of Consumer Protection
Deputy Attorney General
Delaware Department of Justice
820 N. French Street, 5th Floor
Wilmington, Delaware 19801

Vendors are directed to clearly print “PROPOSAL ENCLOSED” and “CONTRACT NO. 090817DOJ” on the outside of the proposal submission package.

Any proposal received after the Deadline for Receipt of Proposals date shall not be considered and shall be returned unopened. The proposing vendor bears the risk of delays in delivery. The contents of any proposal shall not be disclosed as to be made available to competing entities during the negotiation process.

Upon receipt of vendor proposals, each vendor shall be presumed to be thoroughly familiar with all specifications and requirements of this RFP. The failure or omission to examine any form, instrument or document shall in no way relieve vendors from any obligation in respect to this RFP.

3. Proposal Modifications

Any changes, amendments or modifications to a proposal must be made in writing, submitted in the same manner as the original response and conspicuously labeled as a change, amendment or modification to a previously submitted proposal. Changes, amendments or modifications to proposals shall not be accepted or considered after the hour and date specified as the deadline for submission of proposals.

4. Proposal Costs and Expenses

The DOJ will not pay any costs incurred by any Vendor associated with any aspect of responding to this solicitation, including proposal preparation, printing or delivery, attendance at vendor’s conference, system demonstrations or negotiation process.

5. Proposal Expiration Date

Prices quoted in the proposal shall remain fixed and binding on the Applicant at least through March 22, 2018. The DOJ reserves the right to ask for an extension of time if needed.

6. Late Proposals

Proposals received after the specified date and time will not be accepted or considered. To guard against premature opening, sealed proposals shall be submitted, plainly marked with the proposal title, vendor name, and time and date of the proposal opening. Evaluation of the proposals is expected to begin shortly after the proposal due date. To document compliance with the deadline, the proposal will be date and time stamped upon receipt.

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7. Proposal Opening

The DOJ will receive proposals until the date and time shown in this RFP. There will be no public opening of proposals but a public log will be kept of the names of all vendors that submitted proposals

8. Non-Conforming Proposals

Non-conforming proposals will not be considered. Non-conforming proposals are defined as those that do not meet the requirements of this RFP. The determination of whether an RFP requirement is substantive or a mere formality shall reside solely within the DOJ.

9. Concise Proposals

The DOJ discourages overly lengthy and costly proposals. It is the desire that proposals be prepared in a straightforward and concise manner. Unnecessarily elaborate brochures or other promotional materials beyond those sufficient to present a complete and effective proposal are not desired. The DOJ's interest is in the quality and responsiveness of the proposal.

10. Realistic Proposals

It is the expectation of the DOJ that vendors can fully satisfy the obligations of the proposal in the manner and timeframe defined within the proposal. Proposals must be realistic and must represent the best estimate of time, materials and other costs including the impact of inflation and any economic or other factors that are reasonably predictable.

The DOJ shall bear no responsibility or increase obligation for a vendor's failure to accurately estimate the costs or resources required to meet the obligations defined in the proposal.

11. Confidentiality of Documents

Subject to applicable law or the order of a court of competent jurisdiction to the contrary, all documents submitted as part of the vendor's proposal will be treated as confidential during the evaluation process. As such, vendor proposals will not be available for review by anyone other than the DOJ/Proposal Evaluation Team or its designated agents. There shall be no disclosure of any vendor's information to a competing vendor prior to award of the contract unless such disclosure is required by law or by order of a court of competent jurisdiction.

The DOJ and its constituent agencies are required to comply with the State of Delaware Freedom of Information Act, [29 Del. C. ch. 100 \("FOIA"\)](#). FOIA requires that the State of Delaware's records are public records (unless otherwise declared by FOIA or other law to be exempt from disclosure) and are subject to inspection and copying by any person upon a written request. Once a proposal is received by the DOJ and a decision on contract award is made, the content of selected and non-selected vendor proposals will likely become subject to FOIA's public disclosure obligations.

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The DOJ wishes to create a business-friendly environment and procurement process. As such, the DOJ respects the vendor community's desire to protect its intellectual property, trade secrets, and confidential business information (collectively referred to herein as "confidential business information"). Proposals must contain sufficient information to be evaluated. If a vendor feels that they cannot submit their proposal without including confidential business information, they must adhere to the following procedure or their proposal may be deemed unresponsive, may not be recommended for selection, and any applicable protection for the vendor's confidential business information may be lost.

In order to allow the DOJ to assess its ability to protect a vendor's confidential business information, vendors will be permitted to designate appropriate portions of their proposal as confidential business information.

Vendor(s) may submit portions of a proposal considered to be confidential business information in a separate, sealed envelope labeled "Confidential Business Information" and include the specific RFP number. The envelope must contain a letter from the Vendor's legal counsel describing the documents in the envelope, representing in good faith that the information in each document is not "public record" as defined by 29 Del. C. § 10002, and briefly stating the reasons that each document meets the said definitions.

Upon receipt of a proposal accompanied by such a separate, sealed envelope, the DOJ will open the envelope to determine whether the procedure described above has been followed. A vendor's allegation as to its confidential business information shall not be binding on the DOJ. The DOJ shall independently determine the validity of any vendor designation as set forth in this section. Any vendor submitting a proposal or using the procedures discussed herein expressly accepts the DOJ's absolute right and duty to independently assess the legal and factual validity of any information designated as confidential business information. Accordingly, Vendor(s) assume the risk that confidential business information included within a proposal may enter the public domain.

12. Price Not Confidential

Vendors shall be advised that as a contract with the State, no Vendor providing a proposal shall retain the right to declare their pricing confidential.

13. Sub-Contracting

The vendor selected shall be solely responsible for contractual performance and management of all subcontract relationships. This contract allows subcontracting assignments; however, vendors assume all responsibility for work quality, delivery, installation, maintenance, and any supporting services required by a subcontractor.

Use of subcontractors must be clearly explained in the proposal, and subcontractors must be identified by name. Any sub-contractors must be approved by DOJ.

14. Discrepancies and Omissions

Vendor is fully responsible for the completeness and accuracy of their proposal, and for examining this RFP and all addenda. Failure to do so will be at the sole risk of vendor. Should vendor find discrepancies, omissions, unclear or ambiguous intent or meaning, or should any questions arise concerning this RFP, vendor shall notify the DOJ's Designated Contact, in writing, of such findings at least five (5) days before the proposal opening. This will allow issuance of any necessary addenda. It will also help prevent the opening of a defective proposal and exposure of vendor's proposal upon which award could not be made. All unresolved issues should be addressed in the proposal.

Protests based on any omission or error, or on the content of the solicitation, will be disallowed if these faults have not been brought to the attention of the Designated Contact, in writing, at least five (5) calendar days prior to the time set for opening of the proposals.

15. State's Right to Reject Proposals

The DOJ reserves the right to accept or reject any or all proposals or any part of any proposal, to waive defects, technicalities or any specifications (whether they be in the DOJ's specifications or vendor's response), to sit and act as sole judge of the merit and qualifications of each product offered, or to solicit new proposals on the same project or on a modified project which may include portions of the originally proposed project as the DOJ may deem necessary in the best interest of the State of Delaware.

16. State's Right to Cancel Solicitation

The DOJ reserves the right to cancel this solicitation at any time during the procurement process, for any reason or for no reason. The DOJ makes no commitments expressed or implied, that this process will result in a business transaction with any vendor.

This RFP does not constitute an offer by the DOJ. Vendor's participation in this process may result in the DOJ selecting your organization to engage in further discussions and negotiations toward execution of a contract. The commencement of such negotiations does not, however, signify a commitment by the DOJ to execute a contract nor to continue negotiations. The DOJ may terminate negotiations at any time and for any reason, or for no reason.

17. State's Right to Award Multiple Source Contracting

Pursuant to 29 *Del. C.* [§ 6986](#), the DOJ may award a contract for a particular professional service to two or more vendors if the agency head makes a determination that such an award is in the best interest of the State of Delaware.

18. Potential Contract Overlap

Vendors shall be advised that the DOJ, at its sole discretion, shall retain the right to solicit for goods and/or services as required by its agencies and as it serves the best interest of the State of Delaware. As needs are identified, there may exist instances where contract deliverables, and/or goods or services to be solicited and subsequently

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awarded, overlap previous awards. The DOJ reserves the right to reject any or all proposals in whole or in part, to make partial awards, to award to multiple vendors during the same period, to award by types, on a zone-by-zone basis or on an item-by-item or lump sum basis item by item, or lump sum total, whichever may be most advantageous to the State of Delaware.

19. Notification of Withdrawal of Proposal

Vendor may modify or withdraw its proposal by written request, provided that both proposal and request is received by the DOJ prior to the proposal due date. Proposals may be re-submitted in accordance with the proposal due date in order to be considered further.

Proposals become the property of the DOJ at the proposal submission deadline. All proposals received are considered firm offers at that time.

20. Revisions to the RFP

If it becomes necessary to revise any part of the RFP, an addendum will be posted on the State of Delaware's website at www.bids.delaware.gov. The DOJ is not bound by any statement related to this RFP made by any State of Delaware employee, contractor or its agents.

21. Exceptions to the RFP

Any exceptions to the RFP, or the DOJ's terms and conditions, must be recorded on Attachment 1. Acceptance of exceptions is within the sole discretion of the evaluation committee.

22. Award of Contract

The final award of a contract is subject to approval by the DOJ. The DOJ has the sole right to select the Selected Applicant(s) for award, to reject any proposal as unsatisfactory or non-responsive, to award a contract to other than the lowest priced proposal, to award multiple contracts, or not to award a contract, as a result of this RFP.

Notice in writing to a vendor of the acceptance of its proposal by the DOJ and the subsequent full execution of a written contract will constitute a contract, and no vendor will acquire any legal or equitable rights or privileges until the occurrence of both such events.

a. RFP Award Notifications

After reviews of the evaluation committee report and its recommendation, and once the contract terms and conditions have been finalized, the DOJ will award the contract.

The contract shall be awarded to the vendor whose proposal is most advantageous, taking into consideration the evaluation factors set forth in the RFP.

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It should be explicitly noted that the DOJ is not obligated to award the contract to the vendor who submits the lowest bid or the vendor who receives the highest total point score, rather the contract will be awarded to the vendor whose proposal is the most advantageous to the State of Delaware. The award is subject to the appropriate DOJ approvals.

After a final selection is made, the winning vendor will be invited to negotiate a contract with the DOJ; remaining vendors will be notified in writing of their selection status.

23. Cooperatives

Vendors, who have been awarded similar contracts through a competitive bidding process with a cooperative, are welcome to submit the cooperative pricing for this solicitation.

C. RFP Evaluation Process

An evaluation team composed of representatives of the DOJ will evaluate proposals on a variety of quantitative criteria. Neither the lowest price nor highest scoring proposal will necessarily be selected.

The DOJ reserves full discretion to determine the competence and responsibility, professionally and/or financially, of vendors. Vendors are to provide in a timely manner any and all information that the DOJ may deem necessary to make a decision.

1. Proposal Evaluation Team

The Proposal Evaluation Team shall be comprised of representatives of the DOJ. The Team shall determine which vendors meet the minimum requirements pursuant to selection criteria of the RFP and procedures established in *29 Del. C. §§ 6981 and 6982*. Professional services for this solicitation are considered under *29 Del. C. § 6982(b)*. The Team may negotiate with one or more vendors during the same period and may, at its discretion, terminate negotiations with any or all vendors. The Team shall make a recommendation regarding the selection of applicants with whom to negotiate to the Chief Deputy Attorney General, who shall have final authority, subject to the provisions of this RFP and *29 Del. C. § 6982(b)*, to negotiate and to award a contract to the Selected Applicant(s) in the best interests of the State of Delaware.

2. Proposal Selection Criteria

The Proposal Evaluation Team shall assign up to the maximum number of points for each Evaluation Item to each of the proposing vendor's proposals. All assignments of points shall be at the sole discretion of the Proposal Evaluation Team.

The proposals shall contain the essential information on which the award decision shall be made. The information required to be submitted in response to this RFP has been determined by the DOJ to be essential for use by the Team in the proposal evaluation and award process. Therefore, all instructions contained in this RFP shall be met in

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order to qualify as a responsive and responsible contractor and participate in the Proposal Evaluation Team’s consideration for award. Proposals which do not meet or comply with the instructions of this RFP may be considered non-conforming and deemed non-responsive and subject to disqualification at the sole discretion of the Team.

The Team reserves the right to:

- Select for contract or for negotiations a proposal other than that with lowest costs.
- Reject any and all proposals or portions of proposals received in response to this RFP or to make no award or issue a new RFP.
- Waive or modify any information, irregularity, or inconsistency in proposals received.
- Request modification to proposals from any or all vendors during the contract review and negotiation.
- Negotiate any aspect of the proposal with any vendor and negotiate with more than one vendor at the same time.
- Select more than one vendor pursuant to 29 Del. C. § [6986](#). Such selection will be based on the following criteria:
 - DOJ is seeking multiple licensed social workers to analyze the cases that are filed with the office.

Criteria Weight

All proposals shall be evaluated using the same criteria and scoring process. The following criteria shall be used by the Evaluation Team to evaluate proposals:

Criteria	Weight
Qualifications and experience of the Applicant in the Subject Matter Area;	35%
Proposed methodology and work plan, soundness of approach and understanding of the needs of eligible individuals	30%
Demonstrated ability to perform the services referred to in Section 1 above	25%
Billing rates and fee arrangements	10%
Total	100%

Vendors are encouraged to review the evaluation criteria and to provide a response that addresses each of the scored items. Evaluators will not be able to make assumptions about a vendor’s capabilities so the responding vendor should be detailed in their proposal responses.

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3. Proposal Clarification

The Evaluation Team may contact any vendor in order to clarify uncertainties or eliminate confusion concerning the contents of a proposal. Proposals may not be modified as a result of any such clarification request.

4. Oral Presentations

After initial scoring and a determination that vendor(s) are qualified to perform the required services, selected vendors may be invited to make oral presentations to the Evaluation Team. All vendor(s) selected will be given an opportunity to present to the Evaluation Team.

The selected vendors will have their presentations scored or ranked based on their ability to successfully meet the needs of the contract requirements, successfully demonstrate their product and/or service, and respond to questions about the solution capabilities.

The vendor representative(s) attending the oral presentation shall be technically qualified to respond to questions related to the proposed system and its components. All of the vendor's costs associated with participation in oral discussions and system demonstrations conducted for the DOJ are the vendor's responsibility.

V. Contract Terms and Conditions

1. General Information

- a.** The term of the contract between the Selected Applicant(s) and the DOJ shall be for two (2) years with two (2) optional extensions for a period of one (1) year for each extension dependent upon whether the laws as modified by HB 100 are still in effect and the ability of the Consumer Protection Fund to pay for such services.
- b.** The selected vendor will be required to enter into a written agreement with the DOJ. The DOJ reserves the right to incorporate standard State contractual provisions into any contract negotiated as a result of a proposal submitted in response to this RFP. Any proposed modifications to the terms and conditions of the standard contract are subject to review and approval by the DOJ. Vendors will be required to sign the contract for all services, and may be required to sign additional agreements.
- c.** The selected vendor or vendors will be expected to enter negotiations with the DOJ, which will result in a formal contract between parties. Procurement will be in accordance with subsequent contracted agreement. This RFP and the selected vendor's response to this RFP will be incorporated as part of any formal contract.
- d.** If appropriate, the DOJ's standard contract will most likely be supplemented with the vendor's software license, support/maintenance, source code escrow agreements, and any other applicable agreements. The terms and conditions of these agreements will be negotiated during actual contract negotiations.
- e.** No vendor is to begin any service prior to receipt of a State of Delaware purchase order signed by two authorized representatives of the agency requesting service, properly processed through the State of Delaware Accounting Office and the

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Department of Finance. The purchase order shall serve as the authorization to proceed in accordance with the proposal specifications and the special instructions, once it is received by the Selected Applicant(s).

- f. If the vendor to whom the award is made fails to enter into the agreement as herein provided, the award will be annulled, and an award may be made to another vendor. Such vendor shall fulfill every stipulation embraced herein as if they were the party to whom the first award was made.
- g. The DOJ reserves the right to extend this contract on a month-to-month basis for a period of up to three months after the term of the full contract has been completed.

2. Collusion or Fraud

(1) The Applicant offering professional services swears that it has not employed or retained any company or person, working primarily for the Applicant offering professional services, to solicit or secure this agreement by improperly influencing the agency or any of its employees in any professional service procurement process;

(2) The Applicant offering the professional service has not paid or agreed to pay any person, company, corporation, individual or Applicant, other than a bona fide employee working primarily for the Applicant offering professional services, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this agreement; and

(3) For the violation of this provision, the agency shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

3. Lobbying and Gratuities

Lobbying or providing gratuities shall be strictly prohibited. Vendors found to be lobbying, providing gratuities to, or in any way attempting to influence a State of Delaware employee or agent of the State of Delaware concerning this RFP or the award of a contract resulting from this RFP shall have their proposal immediately rejected and shall be barred from further participation in this RFP.

The selected vendor will warrant that no person or selling agency has been employed or retained to solicit or secure a contract resulting from this RFP upon agreement or understanding for a commission, or a percentage, brokerage or contingent fee. For breach or violation of this warranty, the DOJ shall have the right to annul any contract resulting from this RFP without liability or at its discretion deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

All contact with State of Delaware employees, contractors or agents of the State of Delaware concerning this RFP shall be conducted in strict accordance with the manner, forum and conditions set forth in this RFP.

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4. Solicitation of State Employees

Until contract award, vendors shall not, directly or indirectly, solicit any employee of the DOJ to leave the DOJ's employ in order to accept employment with the vendor, its affiliates, actual or prospective contractors, or any person acting in concert with vendor, without prior written approval of the DOJ's contracting officer. Solicitation of DOJ employees by a vendor may result in rejection of the vendor's proposal.

This paragraph does not prevent the employment by a vendor of a DOJ employee who has initiated contact with the vendor. However, DOJ employees may be legally prohibited from accepting employment with the contractor or subcontractor under certain circumstances. Vendors may not knowingly employ a person who cannot legally accept employment under state or federal law. If a vendor discovers that they have done so, they must terminate that employment immediately.

5. General Contract Terms

a. Independent Contractors

The parties to the contract shall be independent contractors to one another, and nothing herein shall be deemed to cause this agreement to create an agency, partnership, joint venture or employment relationship between parties. Each party shall be responsible for compliance with all applicable workers compensation, unemployment, disability insurance, social security withholding and all other similar matters. Neither party shall be liable for any debts, accounts, obligations or other liability whatsoever of the other party or any other obligation of the other party to pay on the behalf of its employees or to withhold from any compensation paid to such employees any social benefits, workers compensation insurance premiums or any income or other similar taxes.

b. Temporary Personnel are Not State Employees Unless and Until They are Hired

Vendor agrees that any individual or group of temporary staff person(s) provided to the DOJ pursuant to this Solicitation shall remain the employee(s) of Vendor for all purposes including any required compliance with the Affordable Care Act by the Vendor. Vendor agrees that it shall not allege, argue, or take any position that individual temporary staff person(s) provided to the DOJ pursuant to this Solicitation must be provided any benefits, including any healthcare benefits by the State of Delaware and Vendor agrees to assume the total and complete responsibility for the provision of any healthcare benefits required by the Affordable Care Act to aforesaid individual temporary staff person(s). In the event that the Internal Revenue Service, or any other third party governmental entity determines that the State of Delaware is a dual employer or the sole employer of any individual temporary staff person(s) provided to the State of Delaware pursuant to this Solicitation, Vendor agrees to hold harmless, indemnify, and defend the State to the maximum extent of any liability to the State arising out of such determinations.

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Notwithstanding the content of the preceding paragraph, should the State of Delaware subsequently directly hire any individual temporary staff employee(s) provided pursuant to this Solicitation, the aforementioned obligations to hold harmless, indemnify, and defend the State of Delaware shall cease and terminate for the period following the date of hire. Nothing herein shall be deemed to terminate the Vendor's obligation to hold harmless, indemnify, and defend the State of Delaware for any liability that arises out of compliance with the ACA prior to the date of hire by the State of Delaware. Vendor will waive any separation fee provided an employee works for both the vendor and hiring agency, continuously, for a three (3) month period and is provided thirty (30) days written notice of intent to hire from the agency. Notice can be issued at second month if it is the State's intention to hire.

c. ACA Safe Harbor

The State and its utilizing agencies are not the employer of temporary or contracted staff. However, the State is concerned that it could be determined to be a Common-law Employer as defined by the Affordable Care Act ("ACA"). Therefore, the State seeks to utilize the "Common-law Employer Safe Harbor Exception" under the ACA to transfer health benefit insurance requirements to the staffing company. The Common-law Employer Safe Harbor Exception can be attained when the State and/or its agencies are charged and pay for an "Additional Fee" with respect to the employees electing to obtain health coverage from the Vendor.

The Common-law Employer Safe Harbor Exception under the ACA requires that an Additional Fee must be charged to those employees who obtain health coverage from the Vendor, but does not state the required amount of the fee. The State requires that all Vendors shall identify the Additional Fee to obtain health coverage from the Vendor and delineate the Additional Fee from all other charges and fees. The Vendor shall identify both the Additional Fee to be charged and the basis of how the fee is applied (i.e. per employee, per invoice, etc.). The State will consider the Additional Fee and prior to award reserves the right to negotiate any fees offered by the Vendor. Further, the Additional Fee shall be separately scored in the proposal to ensure that neither prices charged nor the Additional Fee charged will have a detrimental effect when selecting vendor(s) for award.

d. Licenses and Permits

In performance of the contract, the vendor will be required to comply with all applicable federal, state and local laws, ordinances, codes, and regulations. The cost of permits and other relevant costs required in the performance of the contract shall be borne by the Selected Applicant(s). The vendor shall be properly licensed and authorized to transact business in the State of Delaware as provided in 30 *Del. C.* § [2502](#).

Prior to receiving an award, the Selected Applicant shall either furnish the DOJ with proof of State of Delaware Business Licensure or initiate the process of application where required. An application may be requested in writing to:

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Division of Revenue, Carvel State Building, P.O. Box 8750, 820 N. French Street, Wilmington, DE 19899 or by telephone to one of the following numbers: (302) 577-8200—Public Service, (302) 577-8205—Licensing Department.

Information regarding the award of the contract will be given to the Division of Revenue. Failure to comply with the State of Delaware licensing requirements may subject vendor to applicable fines and/or interest penalties.

e. Notice

Any notice to the DOJ required under the contract shall be sent by registered mail to:

Christian Douglas Wright
Director of Consumer Protection
Deputy Attorney General
Delaware Department of Justice
820 N. French Street, 5th Floor
Wilmington, Delaware 19801
Direct Dial: (302) 577-8944
Email: christian.wright@state.de.us

f. Indemnification

1. General Indemnification

By submitting a proposal, the proposing vendor agrees that in the event it is awarded a contract, it will indemnify and otherwise hold harmless the State of Delaware, its agents and employees from any and all liability, suits, actions, or claims, together with all costs, expenses for attorney's fees, arising out of the vendor's, its agents and employees' performance work or services in connection with the contract.

2. Proprietary Rights Indemnification

Vendor shall warrant that all elements of its solution, including all equipment, software, documentation, services and deliverables, do not and will not infringe upon or violate any patent, copyright, trade secret or other proprietary rights of any third party. In the event of any claim, suit or action by any third party against the State of Delaware, the DOJ shall promptly notify the vendor in writing and vendor shall defend such claim, suit or action at vendor's expense, and vendor shall indemnify the State of Delaware against any loss, cost, damage, expense or liability arising out of such claim, suit or action (including, without limitation, litigation costs, lost employee time, and counsel fees) whether or not such claim, suit or action is successful.

If any equipment, software, services (including methods) products or other intellectual property used or furnished by the vendor (collectively "Products") is or in vendor's reasonable judgment is likely to be, held to constitute an infringing product, vendor shall at its expense and option either:

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- a. Procure the right for the State of Delaware to continue using the Product(s);
- b. Replace the product with a non-infringing equivalent that satisfies all the requirements of the contract; or
- c. Modify the Product(s) to make it or them non-infringing, provided that the modification does not materially alter the functionality or efficacy of the product or cause the Product(s) or any part of the work to fail to conform to the requirements of the Contract, or only alters the Product(s) to a degree that the DOJ agrees to and accepts in writing.

g. Insurance

- 1. Vendor recognizes that it is operating as an independent contractor and that it is liable for any and all losses, penalties, damages, expenses, attorney's fees, judgments, and/or settlements incurred by reason of injury to or death of any and all persons, or injury to any and all property, of any nature, arising out of the vendor's negligent performance under this contract, and particularly without limiting the foregoing, caused by, resulting from, or arising out of any act of omission on the part of the vendor in their negligent performance under this contract.
- 2. The vendor shall maintain such insurance as will protect against claims under Worker's Compensation Act and from any other claims for damages for personal injury, including death, which may arise from operations under this contract. The vendor is an independent contractor and is not an employee of the State of Delaware.
- 3. During the term of this contract, the vendor shall, at its own expense, also carry insurance minimum limits as follows:
 - a. Vendor shall in all instances maintain the following insurance during the term of this Agreement.
 - i. Worker's Compensation and Employer's Liability Insurance in accordance with applicable law.
 - ii. Commercial General Liability
\$1,000,000.00 per occurrence/\$3,000,000 per aggregate.
 - b. The Selected Applicant(s) must carry at least one of the following depending on the scope of work being delivered.
 - i. Medical/Professional Liability
\$1,000,000.00 per occurrence/\$3,000,000 per aggregate
 - ii. Miscellaneous Errors and Omissions
\$1,000,000.00 per occurrence/\$3,000,000 per aggregate

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c. If the contractual service requires the transportation of departmental clients or staff, the vendor shall, in addition to the above coverage's, secure at its own expense the following coverage.

i. Automotive Liability Insurance (Bodily Injury) covering all automotive units transporting departmental clients or staff used in the work with limits of not less than \$100,000 each person and \$300,000 each accident.

ii. Automotive Property Damage (to others) - \$25,000

4. The vendor shall provide a Certificate of Insurance (COI) as proof that the vendor has the required insurance. The COI shall be provided prior to agency contact prior to any work being completed by the awarded vendor(s).
5. Neither the State of Delaware nor the DOJ shall be named as an additional insured.
6. Should any of the above described policies be cancelled before expiration date thereof, notice will be delivered in accordance with the policy provisions.

h. Performance Requirements

The selected Vendor will warrant that it possesses, or has arranged through subcontractors, all capital and other equipment, labor, materials, and licenses necessary to carry out and complete the work hereunder in compliance with any and all Federal and State laws, and County and local ordinances, regulations and codes.

i. Vendor Emergency Response Point of Contact

The awarded vendor(s) shall provide the name(s), telephone, or cell phone number(s) of those individuals who can be contacted twenty four (24) hours a day, seven (7) days a week where there is a critical need for commodities or services when the Governor of the State of Delaware declares a state of emergency under the Delaware Emergency Operations Plan or in the event of a local emergency or disaster where a state governmental entity requires the services of the vendor. Failure to provide this information could render the proposal as non-responsive.

In the event of a serious emergency, pandemic or disaster outside the control of the State, the State may negotiate, as may be authorized by law, emergency performance from the Contractor to address the immediate needs of the State, even if not contemplated under the original Contract or procurement. Payments are subject to availability of funds from the Consumer Protection Fund and other payment terms.

j. Warranty

The Vendor will provide a warranty that the deliverables provided pursuant to the contract will function as designed for a period of no less than one (1) year from the date of system acceptance. The warranty shall require the Vendor correct, at its

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own expense, the setup, configuration, customizations or modifications so that it functions according to the DOJ's requirements.

k. Costs and Payment Schedules

All contract costs must be as detailed specifically in the Vendor's cost proposal. No charges other than as specified in the proposal shall be allowed without written consent of the DOJ. The proposal costs shall include full compensation for all taxes that the selected vendor is required to pay.

The DOJ will require a payment schedule based on defined and measurable milestones. Payments for services will not be made in advance of work performed. The DOJ may require holdback of contract monies until acceptable performance is demonstrated (as much as 25%).

l. Liquidated Damages

The DOJ may include in the final contract liquidated damages provisions for non-performance.

m. Termination of Contract

The contract resulting from this RFP may be terminated as follows by the DOJ.

1. Termination for Cause

If, for any reasons, or through any cause, the Vendor fails to fulfill in timely and proper manner its obligations under this Contract, or if the Vendor violates any of the covenants, agreements, or stipulations of this Contract, the DOJ shall thereupon have the right to terminate this contract by giving written notice to the Vendor of such termination and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Vendor under this Contract shall, at the option of the DOJ, become its property, and the Vendor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is usable to the DOJ.

On receipt of the contract cancellation notice from the DOJ, the Vendor shall have no less than five (5) days to provide a written response and may identify a method(s) to resolve the violation(s). A vendor response shall not effect or prevent the contract cancellation unless the DOJ provides a written acceptance of the vendor response. If the DOJ does accept the Vendor's method and/or action plan to correct the identified deficiencies, the DOJ will define the time by which the Vendor must fulfill its corrective obligations. Final retraction of the DOJ's termination for cause will only occur after the Vendor successfully rectifies the original violation(s). At its discretion the DOJ may reject in writing the Vendor's proposed action plan and proceed with the original contract cancellation timeline.

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2. Termination for Convenience

The DOJ may terminate this Contract at any time by giving written notice of such termination and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, models, photographs, reports, supplies, and other materials shall, at the option of the DOJ, become its property and the Vendor shall be entitled to receive compensation for any satisfactory work completed on such documents and other materials, and which is usable to the DOJ.

3. Termination for Lack of Funds

6 *Del. C.* § 2527 allows for money in the Consumer Protection Fund to be used for experts related to ensuring that appropriate coverage is provided under insurance plans for the treatment of substance use disorder or other drug addiction. As such, should the DOJ no longer have sufficient funds to pay for these services and meets its other obligations under § 2527, the agreement shall be terminated. In the event the General Assembly fails to appropriate the specific funds necessary to enter into or continue the contractual agreement, in whole or part, the agreement shall be terminated as to any obligation of the DOJ requiring the expenditure of money for which no specific appropriation is available at the end of the last fiscal year for which no appropriation is available or upon the exhaustion of funds. This is not a termination for convenience and will not be converted to such.

n. Non-discrimination

In performing the services subject to this RFP the vendor, as set forth in 19 *Del. C.* § [711](#), will agree that it will not discriminate against any employee or applicant with respect to compensation, terms, conditions or privileges of employment because of such individual's race, marital status, genetic information, color, age, religion, sex, sexual orientation, gender identity, or national origin. The Selected Applicant(s) shall comply with all federal and state laws, regulations and policies pertaining to the prevention of discriminatory employment practice. Failure to perform under this provision constitutes a material breach of contract.

o. Covenant against Contingent Fees

The Selected Applicant(s) will warrant that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement of understanding for a commission or percentage, brokerage or contingent fee excepting bona-fide employees, bona-fide established commercial or selling agencies maintained by the Vendor for the purpose of securing business. For breach or violation of this warranty the DOJ shall have the right to annul the contract without liability or at its discretion to deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

p. Vendor Activity

No activity is to be executed in an off shore facility, either by a subcontracted firm or a foreign office or division of the vendor. The vendor must attest to the fact that

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no activity will take place outside of the United States in its transmittal letter. Failure to adhere to this requirement is cause for elimination from future consideration.

q. Vendor Responsibility

The DOJ will enter into a contract with the Selected Applicant(s). The Selected Applicant(s) shall be responsible for all products and services as required by this RFP whether or not the Vendor or its subcontractor provided final fulfillment of the order. Subcontractors, if any, shall be clearly identified in the Vendor's proposal by completing Attachment 3, and are subject the approval and acceptance of the DOJ.

r. Personnel, Equipment and Services

1. The Vendor represents that it has, or will secure at its own expense, all personnel required to perform the services required under this contract.
2. All of the equipment and services required hereunder shall be provided by or performed by the Vendor or under its direct supervision, and all personnel, including subcontractors, engaged in the work shall be fully qualified and shall be authorized under State and local law to perform such services.
3. None of the equipment and/or services covered by this contract shall be subcontracted without the prior written approval of the DOJ. Only those subcontractors identified in Attachment 3 are considered approved upon award. Changes to those subcontractor(s) listed in Attachment 3 must be approved in writing by the DOJ.

s. Fair Background Check Practices

Pursuant to 29 Del. C. [§ 6909B](#), the State does not consider the criminal record, criminal history, credit history or credit score of an applicant for state employment during the initial application process unless otherwise required by state and/or federal law. Vendors doing business with the State are encouraged to adopt fair background check practices. Vendors can refer to 19 Del. C. [§ 711\(g\)](#) for applicable established provisions.

t. Vendor Background Check Requirements

Vendor(s) selected for an award that access state property or come in contact with vulnerable populations, including children and youth, shall be required to complete background checks on employees serving the State's on premises contracts. Unless otherwise directed, at a minimum, this shall include a check of the following registry:

- Delaware Sex Offender Central Registry at:
<https://sexoffender.dsp.delaware.gov/>

Individuals that are listed in the registry shall be prevented from direct contact in the service of an awarded state contract, but may provide support or off-site premises service for contract vendors. Should an individual be identified and the Vendor(s) believes their employee's service does not represent a conflict with this

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requirement, may apply for a waiver to the primary agency listed in the solicitation. The Agency's decision to allow or deny access to any individual identified on a registry database is final and at the Agency's sole discretion.

By Agency request, the Vendor(s) shall provide a list of all employees serving an awarded contract, and certify adherence to the background check requirement. Individual(s) found in the central registry in violation of the terms stated, shall be immediately prevented from a return to state property in service of a contract award. A violation of this condition represents a violation of the contract terms and conditions, and may subject the Vendor to penalty, including contract cancellation for cause.

Individual contracts may require additional background checks and/or security clearance(s), depending on the nature of the services to be provided or locations accessed, but any other requirements shall be stated in the contract scope of work or be a matter of common law. The Vendor(s) shall be responsible for the background check requirements of any authorized Subcontractor providing service to the Agency's contract.

u. Work Product

All materials and products developed under the executed contract by the vendor are the sole and exclusive property of the DOJ. The vendor will seek written permission to use any product created under the contract.

v. Contract Documents

The RFP, the proposal, the purchase order, the executed contract and any supplemental documents modifying the RFP or the proposal between the DOJ and the Selected Applicant(s) shall constitute the contract between the DOJ and the vendor. In the event there is any discrepancy between any of these contract documents, the following order of documents governs so that the former prevails over the latter: contract, DOJ's RFP, Vendor's response to the RFP and purchase order. No other documents shall be considered. These documents will constitute the entire agreement between the DOJ and the vendor.

w. Applicable Law

The laws of the State of Delaware shall apply, except where Federal Law has precedence. The Selected Applicant(s) consents to jurisdiction and venue in the State of Delaware.

In submitting a proposal, Vendors certify that they comply with all federal, state and local laws applicable to its activities and obligations including:

1. the laws of the State of Delaware;
2. the applicable portion of the Federal Civil Rights Act of 1964;
3. the Equal Employment Opportunity Act and the regulations issued there under by the federal government;

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4. a condition that the proposal submitted was independently arrived at, without collusion, under penalty of perjury; and
5. that programs, services, and activities provided to the general public under resulting contract conform with the Americans with Disabilities Act of 1990, and the regulations issued there under by the federal government.

If any vendor fails to comply with (1) through (5) of this paragraph, the DOJ reserves the right to disregard the proposal, terminate the contract, or consider the vendor in default.

The selected vendor shall keep itself fully informed of and shall observe and comply with all applicable existing Federal and State laws, and County and local ordinances, regulations and codes, and those laws, ordinances, regulations, and codes adopted during its performance of the work.

x. Severability

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

y. Assignment Of Antitrust Claims

As consideration for the award and execution of this contract by the DOJ, the Vendor hereby grants, conveys, sells, assigns, and transfers to the DOJ all of its right, title and interest in and to all known or unknown causes of action it presently has or may now or hereafter acquire under the antitrust laws of the United States and the State of Delaware, regarding the specific goods or services purchased or acquired for the DOJ pursuant to this contract. Upon either the DOJ's or the Vendor notice of the filing of or reasonable likelihood of filing of an action under the antitrust laws of the United States or the State of Delaware, the DOJ and Vendor shall meet and confer about coordination of representation in such action.

z. Scope of Agreement

If the scope of any provision of the contract is determined to be too broad in any respect whatsoever to permit enforcement to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of the contract shall not thereby fail, but the scope of such provisions shall be curtailed only to the extent necessary to conform to the law.

aa. Affirmation

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The Vendor must affirm that within the past five (5) years the Applicant, if an individual, or the Applicant or any officer, controlling stockholder, partner, principal, or other person substantially involved in the contracting activities of the business, if a business, is not currently suspended or debarred and is not a successor, subsidiary, or affiliate of a suspended or debarred business.

bb. Audit Access to Records

The Vendor shall maintain books, records, documents, and other evidence pertaining to this Contract to the extent and in such detail as shall adequately reflect performance hereunder. The Vendor agrees to preserve and make available to the DOJ, upon request, such records for a period of five (5) years from the date services were rendered by the Vendor. Records involving matters in litigation shall be retained for one (1) year following the termination of such litigation. The Vendor agrees to make such records available for inspection, audit, or reproduction to any official State representative in the performance of their duties under the Contract. Upon notice given to the Vendor, representatives of the DOJ or other duly authorized State or Federal agency may inspect, monitor, and/or evaluate the cost and billing records or other material relative to this Contract. The cost of any Contract audit disallowances resulting from the examination of the Vendor's financial records will be borne by the Vendor. Reimbursement to the DOJ for disallowances shall be drawn from the Vendor's own resources and not charged to Contract cost or cost pools indirectly charging Contract costs.

cc. Other General Conditions

1. **Current Version** – “Packaged” application and system software shall be the most current version generally available as of the date of the physical installation of the software.
2. **Current Manufacture** – Equipment specified and/or furnished under this specification shall be standard products of manufacturers regularly engaged in the production of such equipment and shall be the manufacturer's latest design. All material and equipment offered shall be new and unused.
3. **Volumes and Quantities** – Activity volume estimates and other quantities have been reviewed for accuracy; however, they may be subject to change prior or subsequent to award of the contract.
4. **Prior Use** – The DOJ reserves the right to use equipment and material furnished under this proposal prior to final acceptance. Such use shall not constitute acceptance of the work or any part thereof by the DOJ.
5. **Status Reporting** – The selected vendor will be required to lead and/or participate in status meetings and submit status reports covering such items as progress of work being performed, milestones attained, resources expended, problems encountered and corrective action taken, until final system acceptance.
6. **Regulations** – All equipment, software and services must meet all applicable local, State and Federal regulations in effect on the date of the contract.
7. **Assignment** – Any resulting contract shall not be assigned except by express prior written consent from the Agency.

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8. **Changes** – No alterations in any terms, conditions, delivery, price, quality, or specifications of items ordered will be effective without the written consent of the DOJ.
9. **Billing** – The Selected Applicant(s) is required to "Bill as Shipped" to the respective ordering agency(s). Ordering agencies shall provide contract number, ship to and bill to address, contact name and phone number.
10. **Payment** – The DOJ reserves the right to pay by Automated Clearing House (ACH), Purchase Card (P-Card), or check. The agencies will authorize and process for payment of each invoice within thirty (30) days after the date of receipt of a correct invoice. Vendors are invited to offer in their proposal value added discounts (i.e. speed to pay discounts for specific payment terms). Cash or separate discounts should be computed and incorporated as invoiced.
11. **Purchase Orders** – Agencies that are part of the First State Financial (FSF) system are required to identify the contract number 090817DOJ on all Purchase Orders (P.O.) and shall complete the same when entering P.O. information in the State's financial reporting system.
12. **Purchase Card** – The DOJ intends to maximize the use of the P-Card for payment for goods and services provided under contract. Vendors shall not charge additional fees for acceptance of this payment method and shall incorporate any costs into their proposals. Additionally there shall be no minimum or maximum limits on any P-Card transaction under the contract.
13. **Additional Terms and Conditions** – The DOJ reserves the right to add terms and conditions during the contract negotiations.

VI. RFP Miscellaneous Information

1. No Press Releases or Public Disclosure

The DOJ reserves the right to pre-approve any news or broadcast advertising releases concerning this solicitation, the resulting contract, the work performed, or any reference to the State of Delaware or the DOJ with regard to any project or contract performance. Any such news or advertising releases pertaining to this solicitation or resulting contract shall require the prior express written permission of the DOJ.

The DOJ will not prohibit or otherwise prevent the awarded vendor(s) from direct marketing to the State of Delaware agencies, departments, municipalities, and/or any other political subdivisions, however, the Vendor shall not use the State's seal or imply preference for the solution or goods provided.

2. Definitions of Requirements

To prevent any confusion about identifying requirements in this RFP, the following definition is offered: The words *shall*, *will* and/or *must* are used to designate a mandatory requirement. Vendors must respond to all mandatory requirements presented in the RFP. Failure to respond to a mandatory requirement may cause the disqualification of your proposal.

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3. Production Environment Requirements

The State of Delaware requires that all hardware, system software products, and application software products included in proposals be currently in use in a production environment by a least three other customers, have been in use for at least six months, and have been generally available from the manufacturers for a period of six months. Unreleased or beta test hardware, system software, or application software will not be acceptable.

VII. Attachments

The following attachments and appendixes shall be considered part of the solicitation:

- Attachment 1 – Exceptions
- Attachment 2 – Confidentiality and Proprietary Information
- Attachment 3 – Subcontractor Information Form

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Attachment 3

SUBCONTRACTOR INFORMATION FORM

PART I – STATEMENT BY PROPOSING VENDOR		
1. CONTRACT NO. 090817DOJ	2. Proposing Vendor Name:	3. Mailing Address
4. SUBCONTRACTOR		
a. NAME	4c. Company OSD Classification: Certification Number: _____	
b. Mailing Address:	4d. Women Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No 4e. Minority Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No 4f. Disadvantaged Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No 4g. Veteran Owned Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No 4h. Service Disabled Veteran Owned Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No	
5. DESCRIPTION OF WORK BY SUBCONTRACTOR		
6a. NAME OF PERSON SIGNING	7. BY (<i>Signature</i>)	8. DATE SIGNED
6b. TITLE OF PERSON SIGNING		
PART II – ACKNOWLEDGEMENT BY SUBCONTRACTOR		
9a. NAME OF PERSON SIGNING	10. BY (<i>Signature</i>)	11. DATE SIGNED
9b. TITLE OF PERSON SIGNING		

*** Use a separate form for each subcontractor**