

**Q&A**  
**Request for Proposals #085**  
**Attorney for the Child Services, Representing Children in Child Welfare, Private Custody and Other Limited Proceedings**

**Q1.** If the estimated maximum carrying caseload is lower than the actual carrying caseload, how will that be accounted?

*A. The entirety of the proposed anticipated workload should be accounted for within the two categories of cases defined in the RFP: Child Welfare and Private Custody. These terms are defined in the RFP and considered in greater detail in the questions and answers below.*

**Q2.** Does the RFP include the following case types which our organization currently handles: Guardianship, SIJ, Paternity, Support, Family Offenses, IDV? These cases represent a very significant portion of our caseload. Or, will these be addressed in another RFP?

**Q3.** What are the other limited proceedings that can be applied for?

**Q4.** Would matter such as guardianship, paternity, family offense, support, adoption, matrimonial be considered as part of the “Private Custody” category? If not, how do we account for these cases?

**Q5.** In reference to the data presented for estimated caseloads for Private Custody matters, please clarify and provide further guidance on the following statement that such data is “premised on the estimated maximum carrying caseload determined by the number of filings in a given county and the medial duration of the case to disposition.”

**Q6** We believe that the case numbers you have indicated fail to reflect the actual number of cases handled by our office [cited examples redacted]

**Q7.** Are Guardianship petitions included in the estimated maximum Child Welfare carrying caseload? If so, what is the estimated number of Guardianship petitions included in that estimate of cases in each county in New York State? If Guardianship petitions are not included in the estimated maximum child welfare carrying caseload, will UCS issue a separate RFP for representation of children who are the subject of a Guardianship Petition?

**Q8.** As per the estimated maximum carrying caseload of Private Custody cases listed in the RFP, the Private Custody cases appear to represent only a small fraction of the total number of Custody matters filed in Family Court annually throughout the state. Are non-private Custody matters included in the estimated maximum Child Welfare carrying caseload data? If so, what is the estimated number of non-private Custody matters included in the estimate of Child Welfare cases in each county in New York State?

**Q9.** Will there be an additional RFP to cover cases not involving Child Welfare and Custody? In addition, the Custody Estimated Caseload seems extremely low (approximately 15% of the current caseload in the jurisdiction I am from). Will there be an additional RFP for those additional Custody Cases? Thank you!

**Q10.** In section II of the RFP, on page 10, it states “the data presented for the estimated caseloads for Private Custody matters is premised on the estimated maximum carrying caseload determined by the number of original filings in a given county and the median duration of the case to disposition.” What is the median duration of (Private Custody) cases to dispositions in each New York County?

**Q11.** How are we to estimate the maximum carrying caseload for the other limited proceedings?

**Q12.** For private custody matters, how are original filings defined?

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**Q13.** For private custody matters, how will supplemental petitions be accounted?

**Q14.** In accordance with National and State Bar standards for Attorneys representing children, does UCS agree that caseload capacity should include representing children at Permanency Hearings? Are Permanency Hearings included in the estimate of Child Welfare cases in each county in New York? If so, can UCS provide the estimated number of Permanency Hearing matters included in the data for each County.

*A. (Q2-14) The methodology for projecting caseload in the RFP differs from information that UCS has collected during previous contract periods. This Request for Proposals solicits AFC Services in two categories:*

- 1. **Child Welfare**<sup>1</sup>: Matters in which the child is under the court's jurisdiction for reasons of abuse, neglect or voluntary placement. The child welfare caseload data presented in the RFP represents the number of unique children under the jurisdiction of the court at a given point in time. The time the child remains under the court's jurisdiction for child welfare issues is termed the child welfare "episode." All representation of each child during the episode, inclusive of custody, permanency hearings, termination of parental rights, voluntary surrenders, guardianship any other matters should be included in the child welfare representation proposal. The number is an estimate of the average number of children in an annual period that require AFC representation in each county.*
- 2. **Private Custody** as used in this RFP is an umbrella term for instances where the court appoints an AFC for a child who is the subject of the proceeding in any other matter **not** associated with a child welfare episode<sup>2</sup>. The Private Custody data is based primarily on the custody and visitation original filings, filed outside of a child welfare episode. On average such matters reach disposition in less than a year. The data presented for estimated caseloads for Private Custody matters is the estimated maximum carrying [emphasis added] caseload determined by the number of original filings in a given county and the median duration of the case to disposition (median case duration for counties outside New York City is 68 days, and 126 days for cases in New York City). The estimated maximum carrying caseload is, therefore, less than the aggregate number of original filings in a given year. For example, if the carrying Private Custody caseload stated for a given county is 300 and the median number of days that such cases are active is 68, the approximate number of annual original filings could be extrapolated to approximately 1,660.*

*We recognize that there are other supplemental and additional matters that are not included in the data presented in the RFP. The data presented attempts to estimate the*

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<sup>1</sup> The Estimated Maximum Carrying Caseload for Child Welfare cases was derived from New York State Universal Case Management System – Family, Child Welfare Data Metrics, Children Under the Court's Jurisdiction for Reasons of Abuse, Neglect or Voluntary Placement on December 31, 2019.

<sup>2</sup> Matters in which the child is the respondent (juvenile defense) were procured separately.

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*number of children that requiring representation, rather than the number of petitions or filings. Proposals may not be submitted for caseloads in excess of those stated in the RFP and should be developed to ensure sufficient attorney coverage to handle the proposed caseload at any given point in time within the caseload standards as established by Part 127 Section 5 of the Rules of the Chief Administrative Judge.*

*The definitions as provided in the RFP and as clarified here should allow applicants to develop proposals that can be comparatively evaluated by UCS.*

**Q15.** It appears that only legal services organizations and not individuals may present proposals. Is this correct? I am an attorney with many years experience as an AFC. Am I precluded from making an application? If so, how do I become a legal services organization? If I can organize as a legal services organization, will my many years of AFC experience be considered, or will it be assumed that the organization, newly formed, has no experience?

**Q16.** I write to understand the eligibility criteria for RFP P&CS #085 Attorney for the Child Services, Subject Child. The RFP requires the following of applicants:

“Eligible applicants shall be non-profit legal aid society organizations. Applicants must be organized for the purpose of providing legal services, must have a minimum of three years of relevant experience providing the type of services required under this RFP.”

I am Director of Clinic Programs at [redacted] and would like to know if our pro bono-law clinic program (which is a non-profit but is not separately incorporated from the educational non-profit of [redacted]) is eligible. We provide free legal services to indigent clients in a variety of practice areas and have a student practice order with the Second Appellate Division. Our students provide legal services under the supervision of our licensed staff attorneys and faculty. We have over three years of experience in representation of children in family court and other proceedings, including through our Child Advocacy Clinic. We also have other contracts from OCA for legal services.

*A. (Q15-16) Section 243(a) of the Family Court Act reads in part [emphasis added]: “The office of court administration may enter into an agreement with a legal aid society for the society to provide attorneys to represent children in the family court or appeals in proceedings originating in the family court in a county having a legal aid society.”*

*The term “legal aid society” is not defined in law but is generally understood to mean an organization formed to assist persons who have limited or no financial means but need legal help. Proposals from any such organization will be considered.*

**Q17.** Is the Integrated Domestic Violence Court (IDV) in Supreme Court part of the other limited proceedings? Will there be a separate RFP for IDV?

*A. Child Welfare and Private Custody matters anticipated to be heard in the Integrated Domestic Violence part should be included as part proposed representation.*

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**Q18.** In relationship to the estimated maximum caseload data, can UCS provide data on the percentage of original Neglect and Abuse original cases in each county that have one or more petitions of a different type pending at the same time?

*A. UCS has not compiled and published this data.*

**Q19.** It is estimated that over one thousand children who enter foster care in New York State each year do not have legal immigration status. It is expected that AFCs seek relief for these children in the form of SIJS applications. Applications for Special Immigrant Juvenile Status are routinely filed on behalf of children in Family Court. For the purpose of determining caseload capacity, are Special Immigrant Juvenile Status cases included in the maximum number of estimated Child Welfare cases and/or Private Custody cases listed in the RFP?

*A. Such children are included in the “under the court’s jurisdiction” metric. The costs of representing such children in SIJS applications should be included in the applicant’s proposal.*

**Q20.** In accordance with the Family Court Act section 241, minors who are the subject of Family Court proceedings or Appeals should be represented by counsel. The RFP does not provide Appellate case data. Will UCS issue a separate RFP for representation of children in Appellate cases? If not, has UCS included Appellate cases in the maximum carrying caseload data in the Child Welfare and Private Custody categories?

*A. The cost of appellate representation should be included in the applicant’s proposal.*

**Q21.** In accordance with National and State Bar standards for Attorneys representing children, does UCS agree that out of court advocacy, including but not limited to, the representation of the child at Commissioner of Social Services family conferences, child welfare agencies, or at administrative hearings is material to representation and should be factored into the cost per case?

*A. Yes.*

**Q22.** In accordance with National and State Bar standards for Attorneys representing children, social work, investigative and other supports are considered necessary to fulfil the expectations of the role, does UCS agree that these supports must be factored into the cost for every case?

*A. As stated in the RFP, “Awarded applicants shall be required to perform the following AFC Services in Child Welfare and Private Custody Matters: [...] provide other services that promote quality representation, which may include social workers, investigators, or other related professional services.”*

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**Q23.** In order to meet National standards for representing children, Attorneys for children must have reasonable caseloads. The Children's Bureau and the American Bar Association recommend that a full time attorney represent no more than 100 individual clients at a time, assuming a caseload that includes clients at various stages of cases, and recognizing that some clients may be part of the same sibling group. Does UCS agree with this case cap standard?

*A. This RFP requires proposals to provide staff attorney coverage to handle the carrying caseload at any given point in time within the caseload standards as established by Part 127 Section 5 of the Rules of the Chief Administrative Judge.*

**Q24.** National standards assert that a child's lawyer may pursue issues on behalf of the child, administratively or judicially, even if those issues do not specifically arise from the court appointment. Such ancillary matters include special education and school discipline hearings, for example. Does UCS agree with this standard of practice? Does UCS agree that these supports must be factored into the cost for every case?

*A. Proposals may include representation in such ancillary matters. Inclusion of the cost of such representation is not mandated.*

**Q25.** UCS recognizes that quality representation and enhanced services in Child Welfare include the support of social workers, what ratio of social workers per attorney does the UCS recommend?

*A. UCS does not prescribe a specific ratio of social workers to attorneys.*

**Q26.** UCS recognizes that quality representation and enhanced services in Child Welfare matters include the necessity of investigators, what ratio of investigators per attorney does the UCS recommend?

*A. UCS does not prescribe a specific ratio of investigators to attorneys.*

**Q27.** If the AFC organization intends to apply for awards in multiple Counties, can the organization submit ONE proposal for the entire organization's application, or does UCS require separate submission for each County?

*A. The organization should submit one application. Complete required fields in the "Counties and Caseload Applied For" chart for each county in which the applicant is proposing to provide services.*

**Q28.** If an AFC organization can submit ONE application for multiple Counties can the Project Description and other Narrative Section page limits be expanded? If so, by how much?

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**Q29.** If applications include more than one county and/or more than one case type per county, does the five-page limit for the Project Description narrative still apply, or is the applicant given additional pages to address the multiple county program(s).

*A. (Q28-29) No, the page limits apply per application.*

**Q30.** Will the contract award be funded on a cost reimbursement basis as it is currently funded or on a performance basis?

*A. Applicant responses on the Cost Proposal and Caseload Capacity Chart for Applicant Estimated Capacity and Cost per Case will be used for the purpose of determining awards, but awardees will not be reimbursed on a case basis, but rather for actual expenditures incurred against a line item budget to be developed post-award. Applicants should propose Costs per Case Bids sufficient to provide appropriate representation.*

**Q31.** Where there are two or more applicants for the same county, will UCS specifically designate the institution with the second highest score a conflict provider?

*A. UCS reserves the right to award up to four (4) contracts per county for each case type. UCS reserves the right to decline to issue an award in any given county and case type and/or to make awards up to the Caseload Capacity entered by the applicant, or a lesser Caseload Capacity amount. UCS will not make awards that designate one applicant a primary and another applicant a conflict provider.*

**Q32.** What percentage of the total estimated maximum cases in each county, does UCS anticipate will be allocated to the 18b panel attorneys (assigned counsel). Can UCS disclose the average cost per case as per annual 18b vouchers for 2018 and 2019 for all Child Welfare and Custody matters. Please include cost per case for experts, social work consultants, investigator services and training.

*A. The RFP requires that applicants make a caseload bid by entering its caseload capacity. UCS cannot speculate on the prospective allocation of the total maximum caseload that will be allocated to institutional providers or alternatives in the future. OCA does not compile or publish average cost per case data for 18-b panel attorneys.*

**Q33.** Why wasn't a pre-RFP meeting or question and answer period held before the RFP was issued?

*A. UCS is not required to hold meetings or question and answer sessions prior to RFP issuance.*

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**Q34.** Page 10 section II Project Information paragraph 2 states “Private Custody matters shall include cases where the court appoints an AFC in a custody or visitation matter not associated with an Article 10 proceeding.” For continuity of representation on custody and visitation matters, if a subsequent Article 10 is filed and the AFC is assigned how should that be factored in to the estimated maximum carrying caseload?

**Q35.** Should the organization appointed on original Private Custody matters and then assigned to subsequent Article 10 cases utilize the estimated maximum carrying caseload in Child Welfare point in time definition?

*A. (Q 34-35) A Private Custody matter filed prior to the child coming under the court’s jurisdiction for reasons of abuse, neglect or voluntary placement would be included in the Private Custody case estimates. The subsequent Article 10 filing would result in the child being included in the Child Welfare case estimates.*

**Q36.** Page 10, section II Project Information, paragraph 2 states “the estimated maximum carrying caseload (is) determined by the number of original filings in a given county.” Does “original filings in a given county” mean all the original custody and visitation matters filed in the given county for that year or the number of original filings that the court appoints the AFC organization to for that year?

*A. “Original filings in a given county” means all the original custody and visitation matters filed in a given county.*

**Q37.** What calendar year(s) should the AFC organization’s numbers be based on?

*A. The RFP is premised on a contract start date of April 1, 2021.*

**Q38.** Is estimated maximum carrying caseload in Child Welfare and Private Custody based on a fully trained incumbent?

**Q39.** Have you considered how you will factor in the estimated maximum carrying caseload in Child Welfare and Private Custody with new staff, part time staff or when an AFC is on a leave of absence?

**Q40.** Have you considered how you will factor in the estimated maximum carrying caseload in Child Welfare and Private Custody for a legal supervisor with other responsibilities?

*A. (Q38-40) The applicant should consider these factors in developing its proposal.*

**Q41.** Page 20 the Cost per Case bid must include all costs and expenses. How is USC factoring in variable cost that are out of the control the bidder but such as forensics and supervised visitation?

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**Q42.** Would the USC consider handling the payment of forensic and supervised visitation payments to those vendors, so it is not part of the cost per case equation for the AFC cost proposal?

*A. (Q41-42) Proposals should estimate and include all programmatically necessary costs of representation.*

**Q43.** Does Page 20 (i) the Estimated Caseload number for an individual County and Case/Type mean that the Applicant's Estimated Capacity number can be 5% higher than the USC Estimated Caseload for such County and Case/Type?

**Q44.** Do we have opportunity to bid for Private Custody cases beyond the estimated caseloads presented?

*A. (Q 43-44) No, the RFP states that the applicant must enter an Applicant Estimated Capacity number up to (but not greater than) the corresponding UCS Estimated Caseload number for each County and Case/Type for which it is entering a bid; provided: (i) the Estimated Caseload number for an individual County and Case/Type must be equal to or greater than 5% of the UCS Estimated Caseload for such County and Case/Type.*

**Q45.** What is the ideal formula for calculating the cost per case bid?

*A. As stated in the RFP, the Cost per Case bid must include all costs and expenses per case for providing the services required pursuant to the bid specifications.*

**Q46.** In the Narrative Description, when asked to provide information on the "organization" should we limit the answer to the "bureau" that provides the attorney for the child services or speak to the overall institutional organization's capabilities?

*A. The degree to which the applicant wishes to focus on the organization as a whole and programs within it is at the applicant's discretion.*

**Q47.** We have found that the RFP is silent about the Bid protest/dispute process. It is our understanding that the instructions for a bid protest or a dispute should be laid out in the solicitation according to the State General Services guidelines.

*A. The UCS, an independent branch of New York State government, is not subject to general state bid guidelines, including but not limited to bid protest and vendor dispute procedures. However, UCS does have a Grievance Procedure. In order to file a grievance the bidder should request a copy of the UCS Grievance Procedures by emailing the designated contact person listed in the RFB/RFP. Please note that a*



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*grievance must be filed within ten (10) business days of notification by UCS to bidders of the procurement determination.*

**Q48.** We are writing to urge you to consider retracting the current RFP.

*A. While this is not a question, we infer that the statement is based on concerns related to the caseload data. We trust the clarifications above address such concerns. Proposals remain due on March 3, 2021 at 2pm.*