

RFP P&CS # 132
Issued Friday, April 21, 2023

Erie County Family Court Custody and Visitation Mediation Services
Due Friday, May 19, 2023, at 2:00 PM



NEW YORK STATE UNIFIED COURT SYSTEM

Request for Proposals # 132 OCA / Professional and Court Services

**Family Court Custody and Visitation Mediation Services
Erie County, New York**

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Reading this Request for Proposals

This Request for Proposals (RFP) comprises the *Articles*, *Attachments*, and *Exhibits* described below.

There are twelve (12) **Articles** in this main document:

- I. Background Information and Instructions
- II. Project Information
- III. Award
- IV. Minimum Qualifications
- V. Project Services
- VI. Insurance Requirements
- VII. Award Selection Criteria and Method of Award
- VIII. Required Documents
- IX. Submission of Proposal
- X. Questions
- XI. Pre-Bid Conference
- XII. General Specifications

In addition, there are three (3) standard **Attachments**: Attachments I, III, and IV. Note that Attachment II is deliberately not included in this RFP. The three Attachments that are included in this RFP are available for download from the table on the Unified Court System's Current Solicitation webpage (<http://ww2.nycourts.gov/admin/bids/currentsolicitations.shtml>). The attachments are available in the row corresponding to this RFP and in the "Addenda" column. If this RFP requires vendors to submit a "required budget form," that form is available for download in the same row and column as the Attachments.

Lastly, there are **Exhibits** that are published in this main document following Article XII. Vendors are strongly encouraged to follow the checklist in Exhibit 1 when assembling their proposal.

Note: Throughout this RFP, the terms, *proposer*, *vendor*, and *applicant* are used interchangeably, as are *RFP*, *bid* and *solicitation*.



For information about *why the Unified Court System has issued this RFP*, please consult Articles I, II, and V.

If you want to know *whether you or your organization qualifies to submit a proposal*, please consult Articles IV and VI as well as Attachment III and Exhibit 3.

For information about *how and when to submit any questions*, please consult Article X. If you want to know *whether a pre-bid conference will be held*, please consult Article XI.

For guidance about *how to submit your proposal*, including *formatting requirements*, please review Articles VIII and IX as well as Exhibits 1 and 2.

For details about *how your proposal will be evaluated*, please read Articles IV, VII, VIII, and XII as well as the Proposal Rating Tool in Exhibit 4.

Finally, the *number of available awards and the duration of the resultant contract* can be found in Article III. This RFP includes the standard "Appendix B" that will be incorporated into any resultant contract (see Exhibit 5).

I. BACKGROUND INFORMATION

The mission of the New York State Unified Court System (UCS) is to deliver equal justice under the law and to achieve the just, fair and timely resolution of all matters that come before our courts. In the service of our mission, the UCS is committed to operating with integrity and transparency, and to ensuring that all who enter or serve in our courts are treated with respect, dignity, and professionalism. We affirm our responsibility to promote a court system free from any and all forms of bias and discrimination and to promote a judiciary and workforce that reflect the rich diversity of New York State. More information about the UCS is available at <https://www.nycourts.gov>.

The UCS Office of Court Administration's (OCA) Division of Professional and Court Services (DPCS) is soliciting proposals via this Request for Proposals (RFP) for the purpose of establishing a contract to provide Custody and Visitation Mediation Services in Erie County Family Court.

The New York State Unified Court System offers parties access to free or reduced-fee mediation and other Alternative Dispute Resolution (ADR) services in family law, general civil and commercial law disputes. These services are available in many courthouses and in the Community Dispute Resolution Centers located in almost all of New York State's 62 counties. The most common ADR process, mediation, is a process where a neutral person called a "mediator" helps the parties try to reach a mutually acceptable resolution of the dispute. The mediator does not decide the case; instead, the mediator helps the parties communicate so they can try to settle the dispute themselves. Mediation is confidential and can be less stressful than traditional court proceedings. In mediation, parties play an important role in resolving their own disputes. This often results in creative solutions, longer-lasting outcomes, greater satisfaction, and improved relationships.

Custody and visitation mediation provides parents in appropriate cases the opportunity to decide physical and legal custody and/or develop a parenting plan that address any of the wide range of issues parents would like to decide including, but not limited to, parenting time, holidays and vacations, child activities, educational issues, religious upbringing, visits with relatives, health care, diet, parenting styles, and communication between parents.

II. PROJECT INFORMATION

At the behest of the Administrative Office for the Eighth Judicial District Administrative Judge, DPCS is issuing this RFP to identify a responsible and qualified nonprofit organization to deliver custody and visitation mediation services to litigants in Erie County Family Court. The annual funding for the initial 12-month period of the proposed contract term is estimated at \$325,000. It is anticipated that the Erie County Family Court will refer 1,000 cases per calendar year under this contract and that approximately 60% of those cases will result in a mediation. All referred cases will receive case intake and domestic violence screening as described more fully in Article V (Project Services) below.

III. AWARD

UCS intends to award one contract for a term beginning on or around July 1, 2023, and terminating on March 31, 2028 (“Contract Term”). Funding under any contract resulting from this RFP is contingent upon the availability of current and subsequently enacted New York State appropriations.

IV. MINIMUM QUALIFICATIONS

Proposals will be considered only from applicants who meet the following qualifications:

- Pursuant to Judiciary Law § 849-a(3), UCS may only consider applications submitted by nonprofit organizations that are organized for the resolution of disputes or for religious, charitable, or educational purposes. Applicants must also operate within New York State.
- Applicants must possess at least five (5) years of experience in performing services relevant to those described herein.
- Applicants must have the ability to provide Project Services (hereinafter defined) to clients within Erie County.

V. PROJECT SERVICES

UCS seeks proposals describing how the applicant will provide the services listed below (“Project Services”). The selected applicant shall be required to provide the Project Services listed below.

For cases referred from Erie County Family Court, the selected applicant will provide custody and visitation mediation services, including:

- Conduct case intake and case management for all referred cases, including educating referred parties about mediation and its benefits, preparing interested parties to participate in mediation, and following up with parties after mediation services have been delivered;
- Conduct domestic violence screening to ensure that only appropriate cases proceed to mediation;
- Mediate cases online and in-person;
- Prepare mediation agreements and court paperwork to the specifications of the court;
- Manage a roster of consultant mediators and develop additional mediators who have met the minimum standards for mediation training and experience, as outlined in Part 146 of the Rules of the Chief Administrative Judge (<http://ww2.nycourts.gov/ip/adr/Part146.shtml>);
- Seek to recruit and utilize diverse mediators who reflect the residents of Erie County;
- Supervise all mediators to ensure high quality of services and ensure that they complete annual continuing education requirement;
- Maintain professional and collegial relationships with Judges and court staff;
- Utilize a database to store case information;
- Review vouchers from roster mediators, issue prompt payments, and maintain thorough financial records;
- Provide reports to the court on a quarterly basis regarding case activity, case outcomes, and client satisfaction; and
- Maintain confidential case files.

VI. INSURANCE REQUIREMENTS

Awarded applicant shall be required to maintain the insurance specified in Exhibit 3 hereto (Insurance Requirements) at its own cost and expense during the Contract Term and any renewal or extension term.

VII. AWARD SELECTION CRITERIA AND METHOD OF AWARD

A single award will be made pursuant to this RFP. The selected awardee must 1) meet the minimum qualifications outlined in Article IV above; 2) be a responsible applicant as determined in accordance with the criteria in Article XI; and 3) receive the highest composite (technical + cost) score in excess of the minimum score as determined by the selection criteria set forth herein.

Responsibility is determined in accordance with the criteria articulated in the “Responsible Applicant” paragraph set forth in Article XII (General Specifications).

Proposals will be reviewed and rated by a team of qualified UCS staff.

In the event of a tie composite score, the applicant with the higher cost score will prevail.

Proposals will be scored as follows:

Technical Criteria (75%)	Maximum Points
Organizational Capacity	35
Proposed Service Delivery	40
Maximum Technical Points	75
Reasonableness of Cost (25%)	25
Maximum Cost Points	25
MAXIMUM TOTAL POINTS	100

Organizational capacity and program and staffing plan criteria are contained in the Rating Tool attached as Exhibit 4 hereto.

Note: A minimum Technical Criteria point score of 35(average of all evaluators) is required for an award to be made.

VIII. REQUIRED DOCUMENTS

General Requirements

All documentation must be submitted on prescribed forms, without alteration. Where no form is included or specified, submissions must be single-spaced with one-inch page margins (not including attachments

or financial forms) using a 12-point font. Pages should be numbered. To facilitate photocopying, do not permanently bind documents.

Applicants must submit every document listed below, as well as the documents listed in the Document Checklist annexed as Exhibit 1 hereto. Failure to provide all documents in the manner required may result in disqualification of an applicant's proposal.

A complete set of the documents required below must be submitted.

a. Narrative Description - Organizational Capacity

Applicants must submit a narrative description of no more than five (5) pages addressing all of the organizational capacity requirements listed below:

1. Briefly describe the proposer's current principal activities and mission statement, including whether the proposer is a nonprofit entity organized for the resolution of disputes or for religious, charitable, or educational purposes and whether the proposer operates in New York State.
2. Describe the organization's experience, if any, providing mediation and/or ADR services.
3. Describe the proposer's capacity to manage, develop, and train mediators effectively.
4. Describe the organization's experience, if any, providing services to the Family Court.
5. Describe the proposer's experience and expertise providing domestic violence screening in matters referred from Family Court.
6. Describe the organization's policies and procedures to ensure client confidentiality.
7. Describe the proposer's prior experience collecting, and/or the capacity to collect, mediation case data and provide reports.
8. Describe the proposer's capacity to manage government-funded programming responsibly, including its capacity to process payments to mediators timely and accurately and to collect and retain supporting documentation appropriately.
9. Provide an organizational chart showing all supervisory staff (this chart will not be included in the page limit).

b. Project Resumes

Submit resumes for all staff who will provide Project Services. For those positions currently vacant, submit detailed job descriptions.

c. Project Description

Applicants must submit a narrative description of no more than five (5) pages addressing all of the Project description requirements listed below:

1. Describe the proposer's plan to recruit and hire qualified new staff and how they will be trained to provide intake and mediation services.
2. Describe the proposer's staffing plan.
3. Describe how the proposer will train new staff to provide domestic violence screening.
4. Describe the proposer's capacity and plan to offer high-quality mediation services in person and online.
5. Describe the proposer's approach to case intake and domestic violence screening.
6. Describe the proposer's plans to manage roster mediators, including ensuring that mediators satisfy ongoing continuing education requirements, and to develop potential new roster members.
7. Describe the proposer's plan to recruit diverse mediators.
8. Describe the proposer's plan to administer payments to roster members.
9. Describe the organization's plan to collect case data and provide reports to the court on a regular basis regarding case activity, case outcomes, and client satisfaction.
10. Describe the proposed supervisory structure for the project.

d. Line-Item Budget Proposal

Applicants must submit a line-item budget proposal indicating the total amount of funding requested for each period ("Budget Period") described below within the Contract Term. The budget for each such Budget Period, including the nine-month initial period described as Budget Period # 1, must be submitted on the Required Budget Form available at <http://nycourts.gov/admin/bids/currentsolicitations.shtml>.

Proposals listing total budgeted costs in excess of the Maximum Funding set forth in Article II above may be subject to disqualification.

Note that there shall be no other charge, cost, reimbursement, or expense of any kind payable by UCS in connection with or arising from the performance of the Project Services. Applicant shall be solely responsible for all costs and expenses incurred in connection with the performance of Project Services that are not expressly included in its budget.

1. The Budget Periods are as follows:

Budget Period	Dates and Maximum Budget Information
1	July 1, 2023 – March 31, 2024; maximum budget not to exceed \$243,750 (9 months)
2	April 1, 2024 – March 31, 2025; maximum budget not to exceed \$325,000 (12 months)
3	April 1, 2025 – March 31, 2026; maximum budget not to exceed \$325,000 (12 months)
4	April 1, 2026 – March 31, 2027; maximum budget not to exceed \$325,000 (12 months)
5	April 1, 2027 – March 31, 2028; maximum budget not to exceed \$325,000 (12 months)

The budget proposal for each budget period must include a minimum amount for payments to roster mediators. During Budget Period # 1, the minimum amount is \$75,000. During subsequent budget periods, the minimum amount is \$100,000. Mediators shall be paid \$75 per hour billed for time mediating referred cases, including time drafting agreements.

2. Non-Allowable Costs/Expenses

The following items *may not be included* in applicant's Project budget:

- Major capital expenditures
- Interest costs
- Fundraising costs
- Advertising costs, except for recruitment of Project Services personnel.
- Entertainment costs

e. Budget Narrative

Applicant must submit a narrative of not more than three (3) pages that briefly describes the expenses included in each budget category of its budget proposal and how they relate to the Project Services. The Personal Services description must include a brief description of responsibilities. The Non-Personal Service (NPS) description must include a brief description of how each expense category relates to the provision of Project Services. For equipment expenses, if any, explain the type of equipment (for example, laptop computer, cell phone) to be purchased. For travel expenses, if any, explain which staff will be traveling and the destination, purpose, and frequency of travel.

f. Additional Documents

In addition to the documents listed above, applicants must submit all documents listed in the Document Checklist attached as Exhibit 1 hereto.

IX. SUBMISSION OF PROPOSAL

a. Proposal Delivery

Applicants shall deliver ONE signed, hard copy original and ONE additional copy (two complete sets) of its application, with all required documents, to:

Division of Professional and Court Services
2500 Pond View, Suite 104
Castleton-on-Hudson, New York 12033
ATTN: Amelia Hershberger

All proposals must also be labeled with the following information on two sides:

“Deliver immediately to Amelia Hershberger”

“Sealed Application - Do not open”

“ERIE COUNTY FAMILY COURT CUSTODY AND VISITATION MEDIATION SERVICES

RFP # 132 – Due May 19, 2023, at 2PM”

Proposals will not be accepted electronically or by fax.

b. Submission Deadline

Applications must arrive at the address above by no later than **Friday, May 19, 2023, at 2PM.**

X. QUESTIONS

Any and all questions applicants may have in connection with this RFP are to be directed by email only to:

Amelia Hershberger
ahershbe@nycourts.gov

Please indicate in “Subject” field: Erie Family Court Custody and Visitation Mediation Services RFP # 132 Question(s)

The deadline to submit questions is **Wednesday, May 3, 2023, at 2PM**. No questions will be entertained after this deadline. A written Questions & Answers (Q&A) listing all questions received and their answers will be posted on the UCS website at www.nycourts.gov/admin/bids in the Addenda column for the appropriate solicitation and mailed to the applicants list promptly after this deadline.

IMPORTANT: Contact by any prospective applicant, or any representative thereof, with any other personnel of the UCS in connection with this Bid/RFP may violate the Procurement Lobbying Act of 2005 (see Attachment IV), will jeopardize the respective applicant's standing and may cause rejection of its proposal.

XI. PRE-BID CONFERENCE

A pre-bid conference will not be held.

XII. GENERAL SPECIFICATIONS

Access to Court Facilities

Awarded Contractor must comply with all applicable location rules, policies, guidelines, and procedures in order to be granted access to court facilities. Where applicable to the performance of work under an awarded contract, bidders shall be wholly responsible for familiarity with the physical layout and access to the courts and buildings in question, including but not limited to, roadways, overhangs, parking, security, elevators, required access permits or insurance certificates. Court staff cannot modify security measures, access protocols, or parking restrictions to facilitate awarded Contractor's entrance to or egress from court facilities unless required to do so by law.

Binding Nature of Bid/Proposal on Bidders

All bids/proposals shall remain binding on bidders until such time as UCS/OCA provides written notification of its intent to award the contract to a specific bidder or until the bidder requests withdrawal

of its bid/proposal in writing, and such withdrawal is accepted by UCS/OCA in its sole discretion in accordance with applicable law, whichever occurs first.

Charities Registration (not-for-profit corporations only)

Not-for-profit corporation vendors must be registered with the New York State Office of the Attorney General as a charitable organization, and the registration must be up to date at the time of contract approval. Vendors must be sure all their documents are up-to-date and comply with the vendor responsibility requirements as outlined below. To determine the status of your charities registration with the Attorney General, contact: https://www.charitiesnys.com/RegistrySearch/search_charities.jsp

Clarification/Correction of Bids/Proposals

In addition to any rights articulated elsewhere in this solicitation, UCS reserves the right to require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a bidder's proposal and/or to determine a bidder's compliance with the requirements of this solicitation. This clarifying information, if requested in writing by UCS, must be submitted by the bidder, in accordance with formats as prescribed by UCS at the time said information is requested and, if received by the due date set forth in UCS's request for clarification, shall be included as a formal part of the bidder's proposal. Clarifying information, if any, whether provided orally, visually, or in writing, will be considered in the evaluation process. Failure to provide required information by its associated due date may result in rejection of the bidder's proposal. Nothing in the foregoing shall mean or imply that UCS is obligated to seek or allow clarifications or corrections as provided for herein.

Compliance with Laws

Prior to and during the provision of all services under the contract resulting from this RFB/RFP, awarded contractor(s) must comply with all applicable federal, state, and local laws, rules, and regulations, including but not limited to fire, health, and safety codes.

Confidential/Proprietary Information

If applicable, applicants should specifically identify those portions of the proposal deemed to contain confidential or proprietary information or trade secrets, and, upon request, must provide justification why such material should not be disclosed to parties other than UCS and the Offices of the New York State Attorney General and Comptroller. Applicants are advised that any material deemed confidential by applicant may still be subject to disclosure in connection with any governmental or judicial proceeding or inquiry or as may be required by applicable law, including but not limited to Article 6 of the New York Public Officers Law (Freedom of Information Law). Such confidential/proprietary information must be easily separable from the non-confidential sections of the proposal.

Confidentiality and Data Security

Awarded Contractor acknowledges that any and all information, records, files, documents, or reports contained in any media format provided to the Awarded Contractor by the UCS, or which may be otherwise encountered by Awarded Contractor, shall be considered extremely confidential and shall be handled accordingly at all times. Neither the Awarded Contractor nor any of its employees, servants, vendors, agents or volunteers shall at any time be permitted to utilize such confidential information for any purpose outside the scope of any resulting agreement from this RFP without the express prior written authorization of UCS. Any breach of this confidentiality by the Awarded Contractor or by any of its employees, servants, subcontractors, agents, or volunteers, may result in the immediate termination of any resulting agreement by UCS and may subject the Awarded Contractor to further penalties.

Awarded Contractor shall use, and require its employees and authorized agents to use, at least the degree of care a reasonably prudent person would use to protect and prevent improper access to the records.

Awarded Contractor is prohibited from maintaining confidential files and records provided to or generated by Awarded Contractor in a mobile or portable device. Remote access to the UCS confidential information is prohibited unless industry standard protocols for remote access are in place (e.g., SSL, VPN). In addition, Awarded Contractor will be required to comply with the data security and confidentiality requirements of other government agencies that supply data to UCS.

Contract Terms

The successful bidder shall be required to comply with the provisions set forth in this RFP, as well as such other provisions contained in an agreement, in form and content satisfactory to UCS in its sole discretion.

Estimated Quantities

Any quantities specified in this solicitation constitute estimates only, and accordingly no commitment or guarantee to reach any specified volume of business is made or implied.

Awarded Contractor must accept all requests for services placed by UCS during the term of an awarded contract.

Federal Requirements

If an award made under this bid is funded in whole or in part with federal funds the bid/award recipient shall, at its cost and expense, promptly and fully comply with, and assist UCS as may be necessary in complying with, any federal requirements applicable to such federal award and funding. It is the responsibility of the applicant to be fully familiar with the federal terms and conditions of the award.

Financial Stability

Upon request by UCS, applicant shall provide its audited financial statements prepared in accordance with Generally Accepted Accounting Principles (GAAP) for the past three (3) consecutive years and a copy of its last three (3) annual reports.

Implied Requirements

Products and services that are not specifically requested in this solicitation, but which are necessary to provide the functional capabilities proposed by the bidder, shall be included in the offer except as specified herein.

Indemnity

Awarded Contractor shall indemnify, defend and hold harmless UCS, its officers and employees from and against any and all claims, causes of action, damages, costs, liabilities and expenses of any kind (including reasonable attorney's fees and the cost of legal defense) which UCS may incur by reason of: (i) awarded contractor's breach of any term, provision, covenant, representation or warranty contained in the contract awarded as a result of this bid; (ii) any act, omission, negligence or intentional misconduct of awarded contractor or its employees, subcontractors, agents, volunteers or of other persons under its direction and control; (iii) awarded contractor's performance or failure to perform under the contract; and (iv) enforcement by UCS of the awarded contract or any provisions thereof.

Independent Contractor Status

It is expressly understood and agreed that the awarded contractor's status shall be that of an independent provider of services and that no officer, employee, servant or subcontractor of the contractor is an employee of the UCS, OCA or State of New York. The Awarded Contractor shall be solely responsible for the work, assignment, compensation, benefits, and personal conduct and standards of all such persons assigned to the provision of services. Nothing herein shall be construed to impose any liability or duty on the UCS, OCA or State of New York to persons, firms, consultants corporations, or other organizations employed or engaged by the awarded contractor, either directly or indirectly, in any capacity whatsoever, nor shall the UCS, OCA or State of New York be liable for any acts, omissions, liabilities, obligations or taxes of any nature including, but not limited to, unemployment and Workers' Compensation insurance of the awarded contractor or any of its employees or subcontractors.

Inspection of Bidder's/Awarded Contractor's Facilities

The UCS/OCA reserves the right to inspect bidder's proposed facilities, as part of the bid evaluation. Subsequent to award, Awarded Contractor's facilities shall be made available for periodic inspection. In all instances, advance notification will be communicated by appropriate court personnel.

Intellectual Property

If Awarded Contractor is required to produce specially commissioned materials pursuant to this Agreement (the "Work"), whether in written form, on tape, on computer-readable media, or in another tangible form, Contractor acknowledges and agrees that UCS shall have the option to: (i) retain a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the Work or (ii) be the sole owner of the Work (the Work shall be considered a "work made for hire"), for Work generated under this Agreement at no additional cost to UCS.

Minor Bid Irregularities

Provided the same will not materially benefit or disadvantage any particular bidder or substantially alter the requirements of this bid, UCS may: (i) waive technicalities, (ii) waive minor irregularities, omissions or incompleteness in the bid or a bid response, (iii) waive any bid requirements that are unmet by all bidders; (iv) consider any and/or all alternatives and/or enhancements suggested by the successful bidder; or (v) make an award under the bid in whole or in part and negotiate contract terms and conditions with the successful bidder to meet UCS requirements consistent with such award.

Online RFB/RFP Package: Disclaimer

Bidders accessing any UCS/UCS/OCA solicitations and related documents from the New York State UCS website www.nycourts.gov/admin/bids under "Current Solicitations" shall remain solely and wholly responsible for reviewing the respective solicitation and bid documents on the internet regularly, up to the scheduled date and time of the bid/proposal due date, to ensure their knowledge of any amendments, addenda, modifications, or other information affecting the solicitation or bid documents in question.

Payment

Awarded Contractor shall send true and accurate invoices on a monthly basis by email or by conventional mail to such person as UCS/OCA shall designate in the contract resulting from this RFP or by such other method to another person at another address as UCS/OCA shall designate.

Payment shall be made monthly in arrears and shall be made within thirty (30) days of submission by Awarded Contractor and approval by UCS of invoices satisfactory to UCS and OSC.

Payment for services performed under the awarded contract shall be conditioned upon the acceptance and approval of such services. Payment shall also be conditioned on whether those services are sufficiently complete both in accordance with the RFP specifications and to the extent necessary for UCS to utilize those services for their intended purpose.

Price Adjustments

Pricing shall be subject to increase as of the commencement date of each Renewal Term by the percentage equal to the lesser of: (i) the increase, if any, in the Consumer Price Index for All Urban Consumers ("CPI") as determined by the U.S. Bureau of Labor Statistics as of the third month prior to the commencement date of each such Renewal Term, over the CPI as of the third month prior to the commencement date of the immediately prior term of the Agreement, or (ii) five percent (5%). Pricing shall thereafter remain unchanged for the balance of each such term and shall further remain unchanged during an Extension Term.

Pricing

All pricing submitted pursuant to the solicitation shall be net and include all costs for the performance of all services required under this solicitation, including transportation costs.

Other than the pricing submitted on the Line-Item Budget Form, there shall be no other charge, cost, reimbursement or expense of any kind payable by UCS in connection with, or arising from, Awarded Contractor's performance of the services set forth herein. Awarded Contractor shall be solely responsible for all costs and expenses incurred in connection with the performance of such services.

Pricing shall be submitted only on, and in the format prescribed by, the Line-Item Budget Form. Bidder must quote pricing on a cost per employee basis and compute all price extensions prompted by Line-Item Budget Form. In the event of a bidder's miscalculation, the unit price will prevail. UCS reserves the right to make mathematical corrections based on unit price(s). Pricing in the awarded contract for amounts in increments not equal to pricing units indicated in the Line-Item Budget Form will be prorated accordingly.

Pricing will remain unchanged during the Initial Term.

Rejected and Unacceptable Bids/Proposals/Awards

UCS reserves the right to reject any and all proposals or bids submitted in response to this solicitation. In addition, UCS may reject any bids/proposals from any bidders who are in arrears to the State of New York upon any debt or performance of any contract; or who have previously defaulted on any contractual obligations (as contracting party, surety or otherwise) or on any obligation to the State of New York; or who have been declared not responsible or disqualified by any agency of the State of New York, or who have any proceeding pending against them relating to the responsibility or qualification of the bidders to receive public contracts, whose proposal is incomplete or otherwise non-responsive in any material respect; or who are found to be non-responsible based on any of the criteria specified in the section headed "Responsible Bidder."

UCS also reserves the right to reject any bidder: (i) whose facilities and/or resources are, in the opinion of OCA, inadequate or too remote from the UCS locations to render services in a timely manner in accordance with all requirements of this solicitation; (ii) who does not provide references in accordance with the bid specifications, or whose references report significant failure to comply with specifications; or (iii) who are otherwise, in the opinion of OCA, unable to meet specifications.

UCS further reserves the right to set aside a bid award to a successful bidder if it is unsuccessful in negotiating a satisfactory contract within a time frame acceptable to the UCS, in which event UCS may then invite the next responsible and responsive bidder with the next highest evaluation score to enter into negotiations for purposes of executing a contract.

Responsible Bidder

A bidder shall be defined as "responsible" in accordance with, but not limited to: references, past performance history, financial stability, the criteria set forth in paragraph 2 of the General Specifications (Attachment III-Vendor Responsibility Questionnaire), the criteria set forth in the paragraph headed "Rejected and Unacceptable Bids/Proposals," as well as any other criteria necessary and reasonable to establish the bidder's responsibility.

Silence of the Specifications

The apparent silence of the specifications contained as part of this package as to any detail or to the apparent omission of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practices are to prevail. All interpretations of these specifications shall be made on the basis of this statement.

Subcontracting

Subcontracting, and any other transfer of any duties or obligations to be performed hereunder, will be permitted only with the prior written consent of UCS to the proposed subcontractors. In the event that bidder proposes to use one or more subcontractors, the specific subcontractors and the services proposed to be performed by such subcontractors, must be listed in bidder's proposal. If a bidder that proposes to use one or more subcontractors is awarded the contract, the award will constitute the prior written approval of UCS to the subcontractors named in the bidder's proposal.

The Awarded Contractor will be the prime contractor and will be responsible for all services required by this RFB/RFP. The UCS will communicate only with Awarded Contractor, and the Awarded Contractor shall remain wholly liable for the performance by, and payment to, any such subcontractors, their employees, agents, consultants, or representatives. UCS may require subcontractors to provide evidence of insurance, as applicable, prior to UCS approval.

Termination

Early termination of the contract for cause may result in, among other consequences, all remedies available to UCS and New York State, including, but not limited to: the awarded contractor both being declared non-responsible by the UCS/OCA pursuant to the UCS and Office of the State Comptroller's guidelines on vendor responsibility and/or being removed from the UCS/OCA applicants list for future solicitations.

A. Early Termination for Budget Modification

1. If the UCS Budget ("Budget") is modified (a "Budget Modification," defined in subsection 2 below) for any State fiscal year included in the term of the awarded contract, in whole or in part (including any renewal or extension term), such that UCS determines, in its sole discretion, that it is necessary to reduce, eliminate, or otherwise modify the budget allocation covering payment thereunder, UCS shall have the option to terminate the awarded contract upon not less than thirty (30) days' notice to awarded contractor, without liability for costs, expenses or damages as a result thereof.
2. For purposes of this subsection A, Budget Modification shall mean and include, with respect to the Budget or any appropriation contained therein:
 - i. any reduction, elimination or restriction upon access thereto as provided by law; or

- ii. any restriction placed on UCS' spending authority, including any restriction imposed by UCS upon itself in response to a request of the Executive or Legislative Branch of government.
3. Termination hereunder shall be further governed by the termination provisions contained in the awarded contract, as applicable.

B. Early Termination for Cause

Early termination of the contract for cause may result in, among other consequences, all remedies available to UCS and New York State, the Awarded Contractor both being declared non-responsible by the UCS/OCA, pursuant to the UCS and Office of the State Comptroller's guidelines on vendor responsibility and in the Awarded Contractor's removal from the UCS/OCA's bidders list for future solicitations.

Unified Court System Self-Insurance

UCS, a New York State governmental entity, is self-retained for risk of loss and liability.

Work for Hire

If Awarded Contractor produces any materials for UCS pursuant to this RFB/RFP, such work shall be deemed "work for hire" and shall be governed by the terms of Exhibit 5 (Appendix B: Materials Produced Under the Agreement).

EXHIBIT 1

DOCUMENT ENCLOSURE CHECKLIST

The documents listed below must be submitted together with applicant's proposal. Failure to do so as required may disqualify applicant's response.

Documents requiring signature must be duly signed where indicated. The listed documents may not be modified, retyped or amended in any manner.

A complete set of RFP documents must be submitted. Failure to provide all documents in the manner required may result in disqualification of an applicant's proposal.

- _____ Proposal Cover Sheet (Exhibit 2)
- _____ Narrative Description – Organizational Capacity (Article VIII (a))
- _____ Project staff resumes (Article VIII (b))
- _____ Project Description (Article VIII (c))
- _____ Line-Item Budget Proposal/Budget Narrative (Article VIII (d))
- _____ Certificates of NYS Worker's Compensation and NYS Disability Benefits Insurance, or Certificate of Attestation of Exemption. (See Exhibit 3 "Insurance Requirements" for a list of accepted forms.)
- _____ Copies of applicant's certificate(s) of insurance or other adequate proof evidencing the insurance coverages required by the bid specifications (See Exhibit 3 "Insurance Requirements" for a list of accepted forms.)
- _____ Attachment I - Standard Request for Bid Clauses & Forms
 - ☐ p.3 - Non-Collusive Bidding Certificate
 - ☐ p.4 - Corporate Acknowledgment
- N/A Attachment II – Not Applicable
- _____ Attachment III – Vendor Responsibility Questionnaire
 - ☐ questionnaire filed online via OSC VendRep System and certified within 6 months of the bid opening date, or
 - ☐ paper questionnaire
- _____ Attachment IV – Procurement Lobbying forms
 - ☐ Disclosure of Prior Non-Responsibility Determination (UCS 420)
 - ☐ Affirmation of Understanding and Agreement (UCS 421)

EXHIBIT 2

PROPOSAL COVER SHEET

Erie County Family Court Custody and Visitation Mediation Services, Erie County, \$243,750
available funding during initial budget term

Legal Name of Applicant	
Executive Director/CEO	
Years of Experience	
Total Funding Requested	
Address	
Phone	
Fax	
Email	
Website Address (not required)	
Federal Tax Identification No. (TIN)	

Vendor's Primary Contact for Proposal Matters:

NAME:		
STREET:		
CITY:	STATE:	ZIP:
TELEPHONE NUMBER:	EMAIL:	

Verification:

Authorized representative of Vendor must complete and sign below to verify that each copy of the submitted proposal includes all documents required per the Document Enclosure Checklist (Exhibit 1):	
COMPANY NAME:	
AUTHORIZED OFFICER'S NAME AND TITLE:	
SIGNATURE:	DATE:

Note: Applicants must submit this Proposal Cover sheet together with all documents listed in the Document Enclosure Checklist attached as Exhibit 1 to this Request for Proposals

EXHIBIT 3

INSURANCE REQUIREMENTS

Grant recipients will be required to maintain the following insurance coverage during the term of the contract:

1. Workers' compensation and disability benefits insurance coverage as required under NYS law. Proof of workers' compensation insurance and disability benefits insurance must be provided with the grant application. If applicant is legally exempt from such coverage, proof of exemption must be provided. The only forms acceptable as evidence of these insurance requirements are:

Proof of Workers' Compensation Coverage

- Form C-105.2 - Certificate of Workers' Compensation Insurance issued by private insurance carriers; or
- Form U-26.3 issued by the State Insurance Fund; or
- Form SI-12 - Certificate of Workers' Compensation Self-Insurance; or
- Form GSI-105.2 - Certificate of Participation in Workers' Compensation Group Self-Insurance; or
- Form CE-200 - Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage.

Proof of Disability Benefits Coverage

- Form DB-120.1 - Certificate of Disability Benefits Insurance, or
- Form DB-120.2 - Certificate of Participation in Disability Benefits Group Self-Insurance; or
- Form DB-155 - Certificate of Disability Benefits Self-Insurance; or
- Form CE-200 - Certificate of Attestation of Exemption from NYS Workers' Compensation and/or Disability Benefits Coverage.

Please note that an ACORD Certificate of Insurance is NOT acceptable proof of New York State workers' compensation or disability benefits insurance coverage. Applicants should obtain the appropriate Workers' Compensation Board forms from their insurance carrier or licensed agent, or follow the procedures set forth by the Workers' Compensation Board for obtaining an exemption from coverage. Required forms and procedures may be obtained on the Workers' Compensation Board website at www.wcb.ny.gov/ and click on 'Employers/Businesses' and/or 'Forms.' Any questions regarding workers' compensation coverage requirements should be directed to:

Workers' Compensation Board
Bureau of Compliance
(518) 462-8882
(866) 298-7830

Applicants awarded funding (whether through a new or amended contract) will be required to provide updated certificates of workers' compensation and disability benefits coverage that name the Unified Court System as the certificate holder if the applicable form has a space for a certificate holder to be listed. The carrier must enter:

NYS Unified Court System
Office of Court Administration
Division of Professional and Court Services
2500 Pond View, Suite 104
Castleton-on-Hudson, New York 12033

The insurance carrier must notify the certificate holder if a policy is canceled.

2. Commercial General Liability Insurance (bodily injury and property damage on an occurrence basis), contractual and products/completed operations liability coverage, and auto liability with minimum limits as follows:

Bodily Injury and Property Damage	\$1 million, per occurrence, \$2 million, aggregate
Personal Injury and Advertising	\$1 million aggregate
Contractual and Products/ Completed Operations Liability	\$2 million aggregate
Auto Liability, Combined single limits	\$1 million

Commercial general liability insurance coverage must be obtained from commercial insurance carriers licensed in, or otherwise authorized to do business in, the State of New York. Proof of applicant's commercial general liability insurance coverage must be submitted with the grant application. Applicants awarded funding will be required to submit an updated certificate naming UCS as a certificate holder, an additional insured, or loss payee, as appropriate, and providing for at least thirty (30) days advance written notice to UCS of cancellation or non-renewal. The updated certificate must be submitted prior to finalization of the contract. The commercial general insurance of Applicants awarded funding shall be primary insurance with respect to UCS.

Products completed operations insurance coverage is not required if applicant provides written documentation prior to finalization of an awarded contract that the organization's commercial general insurance policy does not include coverage for products-completed operations. Automobile liability insurance is not required if applicant does not use vehicles in its operations.

3. Commercial or other Property Insurance (hazard and casualty) coverage must be obtained from commercial insurance carriers licensed or otherwise authorized to do business in the State of New York. Proof of applicant's commercial property insurance coverage must be submitted with the grant application. Applicants awarded funding will be required to submit an updated certificate naming UCS as an additional insured and loss payee. Applicant's insurance carrier must provide UCS (as a certificate

holder) with at least thirty (30) days' advance written notice of cancellation or non-renewal of coverage prior to finalization of the contract. Such insurance shall cover the premises owned or rented by the vendor in an amount not less than the full insurable value (replacement value) of the real property unless otherwise approved in writing by UCS.

4. Professional liability insurance in the amount of \$1,000,000 for all of applicant's professional employees that will perform with grant funding. Proof of applicant's professional liability insurance coverage must be submitted with the grant application. Organizations awarded funding will be required to contractually agree to obtain tail coverage for a minimum of two years in the event that the organization's professional liability coverage policy is terminated and either: (i) there is no replacement policy; or (ii) the replacement policy does not cover claims made against the organization based on events that occurred prior to the effective date of the new policy.

EXHIBIT 4

**PROPOSAL RATING TOOL
PROPOSAL SUMMARY RATING SHEET**

APPLICANT: _____

TECHNICAL CRITERIA

Organizational Capacity (35 points possible) A. _____

Proposed Service Delivery (40 points possible) B. _____

REASONABLENESS OF COST CRITERIA

Cost (25 points possible) C. _____

Total Points: (100 points possible) **TOTAL** _____

A minimum average score of 35 for TECHNICAL CRITERIA is required for a contract to be awarded.

EVALUATOR (Print) _____

(Signature) _____

DATE ____/____/____

DETAIL RATING SHEETS

PROPOSAL: _____

REVIEWER: _____

A. ORGANIZATIONAL CAPACITY (35 POINTS POSSIBLE)

Instructions to reviewers: For each sub-question, award a value of 0 up to the maximum points allowed for the question based on your assessment of the proposal.

_____ A1. Confirm whether the Proposer: (i) is a nonprofit entity organized for the resolution of disputes or for religious, charitable, or educational purposes; and (ii) currently operates in New York State. If Proposer does not satisfy both requirements, award 0 points. Otherwise, rate the extent to which the Proposer demonstrates that delivering custody and visitation mediation services to the Erie County Family Court aligns with its current principal activities and mission statement. (*up to 3 points*)

[Reviewer: Consider the following source of information: Organizational Capacity Question # 1]

3 points = excellent, 2 points = good, 1 point = poor, 0 points = unacceptable

_____ A2. Rate the extent to which the proposal demonstrates the Proposer's: (i) experience delivering mediation and/or alternative dispute resolution (ADR) services; and (2) capacity to manage and train roster mediators effectively. (*up to 5 points*):

[Reviewer: Consider the following sources of information: Organizational Capacity Questions # 2 and # 3]

5 points: The Proposer has at least fifteen (15) years' experience delivering mediation and/or ADR services, and the proposal establishes that the Proposer is *highly likely* to manage and train roster mediators effectively.

4 points: The Proposer has at least twelve (12) years' but fewer than fifteen (15) years' experience delivering mediation and/or ADR services, and/or the proposal establishes that the Proposer is *very likely* to manage and train roster mediators effectively.

3 points: The Proposer has at least ten (10) years' but fewer than twelve (12) years' experience delivering mediation and/or ADR services, and/or the proposal establishes that the Proposer is *more likely than not* to manage and train roster mediators effectively.

2 points: The Proposer has at least eight (8) years' but fewer than ten (10) years' experience delivering mediation and/or ADR services, and/or the proposal establishes that the Proposer is *somewhat likely* to manage and train roster mediators effectively.

1 point: The Proposer has at least five (5) years' but fewer than eight (8) years' experience delivering mediation and/or ADR services, or the proposal establishes that the Proposer is *unlikely* to manage and train roster mediators effectively.

0 points: The Proposer has fewer than five (5) years' experience delivering mediation and/or ADR services.

_____ A3. Assess the extent to which the proposal demonstrates the Proposer's experience providing services to the Family Court (*up to 5 points*):

[Reviewer: Consider the following source of information: Organizational Capacity Question # 4]

- 5 points: The Proposer has at least fifteen (15) years' experience providing services to the Family Court.
- 4 points: The Proposer has at least twelve (12) years' but fewer than fifteen (15) years' experience providing services to the Family Court.
- 3 points: The Proposer has at least ten (10) years' but fewer than twelve (12) years' experience providing services to the Family Court.
- 2 points: The Proposer has at least eight (8) years' but fewer than ten (10) years' experience providing services to the Family Court.
- 1 point: The Proposer has at least five (5) years' but fewer than eight (8) years' experience providing services to the Family Court.
- 0 points: The Proposer has fewer than five (5) years' experience providing services to the Family Court.

_____ A4. Assess the extent to which the proposal demonstrates the Proposer's experience and expertise screening matters referred from Family Court for domestic violence. (*up to 5 points*):

[Reviewer: Consider the following source of information: Organizational Capacity Question # 5]

5 points = excellent, 4 points = very good, 3 points = good, 2 points = fair, 1 point = poor, 0 points = unacceptable

_____ A5. Assess the Proposer's experience processing payments to nonemployees delivering services to clients on behalf of the Proposer (*up to 5 points*):

[Reviewer: Consider the following source of information: Organizational Capacity Question # 8]

- 5 points: The Proposer has at least ten (10) years' experience processing payments for such services.
- 4 points: The Proposer has at least eight (8) but fewer than ten (10) years' experience processing payments for such services.
- 3 points: The Proposer has at least six (6) but fewer than eight (8) years' experience processing payments for such services.
- 2 points: The Proposer has at least four (4) but fewer than six (6) years' experience processing payments for such services.
- 1 point: The Proposer has at least two (2) but fewer than four (4) years' experience processing payments for such services.
- 0 points: The Proposer has fewer than two (2) years' experience processing payments for such services.

_____ A6. Assess the Proposer's capacity to ensure client confidentiality. (*up to 5 points*):

[Reviewer: Consider the following source of information: Organizational Capacity Question # 6]

5 points = excellent, 4 points = very good, 3 points = good, 2 points = fair, 1 point = poor, 0 points = unacceptable

_____ A7. Assess the Proposer's experience collecting, analyzing, and reporting mediation case data. (*up to 2 points*):

[Reviewer: Consider the following source of information: Organizational Capacity Question # 7]

2 points: The Proposer has at least ten (10) years' such experience.

1 point: The Proposer has at least five (5) but fewer than ten (10) years' such experience.

0 points: The Proposer has fewer than five (5) years' such experience.

_____ A8. Assess the Proposer's capacity to manage government-funded programming effectively as well as the suitability of its supervisory staffing model for doing so. (*up to 5 points; note: awarding 2 points is not an option*):

[Reviewer: Consider the following source of information: Organizational Capacity Questions # 9 and # 8]

5 points: The Proposer has at least ten (10) years' managing government-funded programming effectively, including meeting fiscal and programmatic reporting requirements and working in partnership with the court and other governmental partners, and its supervisory structure makes it *highly likely* that the Proposer will deliver mediation services efficiently and effectively.

3 points: The Proposer has at least five (5) but fewer than ten (10) years' managing government-funded programming effectively, including meeting fiscal and programmatic reporting requirements and working in partnership with the court and other governmental partners, and its supervisory structure makes it *more likely than not* that the Proposer will deliver mediation services efficiently and effectively.

1 point: The Proposer has at least five (5) but fewer than ten (10) years' managing government-funded programming effectively, including meeting fiscal and programmatic reporting requirements and working in partnership with the court and other governmental partners, and its supervisory structure makes it *somewhat likely* that the Proposer will deliver mediation services efficiently and effectively.

0 points: Regardless of how many years' experience the Proposer has managing government-funded programming, its supervisory structure makes it *unlikely* that the Proposer will deliver mediation services efficiently and effectively.

SUBTOTAL FOR PART "A" (A1 + A2 + A3 + A4 + A5 + A6 + A7 + A8) _____

B. PROPOSED SERVICE DELIVERY (40 POINTS POSSIBLE)

Instructions to reviewers: For each sub-question, award a value of 0 up to the maximum points allowed for the question based on your assessment of the proposal.

_____ B1. Assess the Proposer's plan to recruit, hire, and train qualified individuals to serve as the staff for this program. *(up to 5 points):*

[Reviewer: Consider the following sources of information: Staff Resumes and Project Description Question # 1 and #2]

5 points = excellent, 4 points = very good, 3 points = good, 2 points = fair, 1 point = poor, 0 points = unacceptable

_____ B2. Assess the Proposer's plan for maintaining a roster of qualified mediators to serve the Erie County Family Court, including the plan for administering payments to roster mediators. *(up to 5 points):*

[Reviewer: Consider the following source of information: Project Description Questions # 6 and # 8]

5 points = excellent, 4 points = very good, 3 points = good, 2 points = fair, 1 point = poor, 0 points = unacceptable

_____ B3. Assess the Proposer's proposed plan to train staff to provide domestic violence screening. *(up to 10 points):*

[Reviewer: Consider the following source of information: Project Description Question # 3 and #5]

10 points = excellent, 8 points = very good, 6 points = good, 4 points = fair, 2 points = poor, 0 points = unacceptable

_____ B4. Assess the Proposer's plan to offer high-quality mediation services. *(up to 5 points):*

[Reviewer: Consider the following source of information: Project Description Question # 4]

5 points = excellent, 4 points = very good, 3 points = good, 2 points = fair, 1 point = poor, 0 points = unacceptable

_____ B5. Assess the Proposer's plan to recruit, train, and utilize a diverse pool of mediators. *(up to 5 points):*

[Reviewer: Consider the following source of information: Project Description Questions # 7 and # 6]

5 points = excellent, 4 points = very good, 3 points = good, 2 points = fair, 1 point = poor, 0 points = unacceptable

_____ B6. Assess the Proposer's proposed plan to collect data and provide reports to the court on a regular basis regarding case activity, case outcomes, and client satisfaction. *(up to 5 points):*

[Reviewer: Consider the following source of information: Project Description Question # 9]

5 points = excellent, 4 points = very good, 3 points = good, 2 points = fair, 1 point = poor, 0 points = unacceptable

_____ B7. Assess the proposed supervisory structure for the project. (*up to 5 points*):

[Reviewer: Consider the following source of information: Organizational Capacity Question # 10 and Project Description Question # 10 and #11]

SUBTOTAL FOR PART “B” (B1 + B2 + B3 + B4 + B5 + B6 + B7) _____

C. REASONABLENESS OF COST (25 POINTS POSSIBLE)

[Reviewer: For all criteria below, consider the following sources of information: Line-Item Budget Proposal and Budget Narrative]

_____ C1. Evaluate the extent to which the salaries and fringe benefits for the proposed program are appropriate for the positions listed in the proposal. (*up to 10 points*):

- 10 points: All salaries and fringe benefit costs are: (i) appropriate for the positions listed in the proposal; and (ii) competitive with other proposals submitted for comparable positions in the same geographic area.
- 7 points: The majority of but not all salaries and fringe benefit costs are: (i) appropriate for the positions listed in the proposal; and (ii) competitive with other proposals submitted for comparable positions in the same geographic area.
- 4 points: Some but not the majority of salaries and fringe benefit costs are: (i) appropriate for the positions listed in the proposal; and (ii) competitive with other proposals submitted for comparable positions in the same geographic area.
- 0 points: None of the salaries and fringe benefit costs are: (i) appropriate for the positions listed in the proposal; and (ii) competitive with other proposals submitted for comparable positions in the same geographic area.

_____ C2. Evaluate the extent to which the costs other than salaries and fringe benefits (that is, non-personal service costs) for the proposed program are appropriate for the proposed program and confirm whether the proposed program will pay roster mediators at the rate specified in paragraph VIII(d)(1) on page 6 of the RFP. (*up to 10 points*):

- 10 points: All costs other than salaries and fringe benefits are reasonable and provide for the needs of the proposed program, and the proposal commits to pay roster mediators at least \$75,000 during the first Budget Period (July 1, 2023 – March 31, 2024) and \$100,000 in subsequent budget periods at the rate specified in paragraph VIII(d)(1) on page 6 of the RFP.
- 7 points: Most but not all costs other than salaries and fringe benefits are reasonable and provide for the needs of the proposed program, and the proposal commits to pay roster mediators at least \$75,000 during the first Budget Period (July 1, 2023 – March 31, 2024) and \$100,000 in subsequent budget periods at the rate specified in paragraph VIII(d)(1) on page 6 of the RFP.
- 4 points: Some but not most costs other than salaries and fringe benefits are reasonable and provide for the needs of the proposed program, but the proposal does not commit to

pay roster mediators at least \$75,000 during the first Budget Period (July 1, 2023 – March 31, 2024) and \$100,000 in subsequent budget periods at the rate specified in paragraph VIII(d)(1) on page 6 of the RFP.

- 0 points: Costs other than salaries and fringe benefits are unreasonable and do not adequately provide for the needs of the proposed program, or the proposal does not commit to pay roster mediators.

_____ C3. Evaluate the extent to which administrative costs—including salaries and fringe benefits on non-program staff and real estate expenses that are not utilized for the direct delivery of services and related costs—are comparable to the percentage found in the budgets of similarly-sized agencies. (*up to 5 points*):

- 5 points: Administrative costs provide for sufficient agency administration of the program and constitute less than 20% of the proposed budget.
- 3 points: Administrative costs are too high or too low to provide for reasonable administration of the program even though they constitute less than 20% of the proposed budget.
- 1 point: Administrative costs are too high or too low to provide for reasonable administration of the program, and they constitute more than 20% of the proposed budget.

SUBTOTAL FOR PART “C” (C1 + C2 + C3) _____

EXHIBIT 5

APPENDIX B

Terms and Conditions Applicable to Materials Produced Under the Agreement

1. Contractor acknowledges and agrees that UCS has ordered and/or specially commissioned the services, deliverables and materials that Contractor is required to produce pursuant to this Agreement (the "Work"), whether in written form, on tape, computer-readable media or other tangible form. Except as otherwise specified in this Appendix B, Contractor agrees that (i) UCS shall be the sole owner of the Work and (ii) the Work shall be considered a "work made for hire" as that term is used under federal and state law. UCS or its authorized designee shall have all right, title and interest of every kind and nature, whether now known or hereafter devised and including, without limitation, all copyrights and renewals and extensions thereof, in and to the Work, including without limitation any editions and versions thereof, without payment of any royalty or other compensation. Without limiting the foregoing, and except as otherwise specified in this Appendix B, if all or any part of the Work is not so deemed a "work made for hire," Contractor hereby irrevocably grants, assigns, transfers and sets over to UCS or its authorized designee all rights of any kind and nature in and to the Work that he/she/it may possess or come to possess, including without limitation all copyrights and renewals and extensions thereof, without payment of any royalty or other compensation. Contractor agrees to execute and deliver to UCS any assignments and other documents requested by UCS confirming the assignment to UCS or its authorized designee of all rights in the Work and to fully cooperate with UCS in registering and protecting UCS's rights to and interests in the Work. Upon request of UCS during any stage of thereof, Contractor shall deliver all such Work to UCS.
2. Contractor represents and warrants that the Work shall be created solely by Contractor, be original, and does not infringe upon the copyright, trademark, patent or other proprietary rights of any third party, including without limitation the right to use or display the name, face or likeness of any person. Furthermore, Contractor represents and warrants that the Work and any other materials used in connection with this Agreement shall not include or incorporate in any way the work or materials of any third party with rights to such work or materials, or the name, face or likeness of any person, unless Contractor has (i) advised UCS of this and (ii) the appropriate written authorizations, releases, licenses or other permits to allow UCS and Contractor to use the Work and any other materials used in connection with this Agreement without violating such rights have been obtained and delivered to UCS. The form of such authorizations and other documents is subject to UCS's approval.
3. All rights granted to UCS hereunder are irrevocable and shall vest and remain perpetually vested in UCS and UCS's successors and assigns without payment of any royalty or other compensation, whether this Agreement expires or is terminated, and shall not be subject to rescission, cancellation or termination by Contractor for any cause whatsoever.
4. If applicable, Contractor shall own and retain all proprietary rights to any materials produced by Contractor prior to the Effective Date, or not as a result of this Agreement ("Contractor's Property"), even if such materials are incorporated into the Work. If any such materials are incorporated into the Work, Contractor hereby licenses to UCS or its authorized designee, in perpetuity, at no additional cost or expense, the non-exclusive, irrevocable worldwide rights to reproduce, display and otherwise use Contractor's Property as part of the Work.
5. If master tapes are created in the production of the Work, upon receipt of final payment for the Work, Contractor will provide these to UCS, except for the master tapes to Contractor's Property (if applicable).
6. If requested by UCS, Contractor shall include in the Work a copyright notice in the following form: "Copyright (or ©) [year] New York State Unified Court System". All rights reserved." If applicable, the notice shall be computer-readable and

clearly visible to viewers for at least three seconds.

7. Contractor shall indemnify, defend and hold UCS, its administrative officers, directors, employees and authorized agents harmless from and against all claims, costs, liability and damages, including reasonable attorneys' fees and disbursements (i) resulting from the Contractor's breach of representation or warranty made herein or (ii) arising in connection with an allegation that UCS's use of the Work (if any) or any other deliverable, if any, infringes any patent, trade secret, copyright or any other proprietary right, including without limitation the rights to use or display a person's name, face or likeness.
8. This Appendix B shall survive expiration or termination of this Agreement.