NEW YORK STATE | Office for People With Developmental Disabilities

Request for Proposal

RFP OPD-2024-39

Supported Decision-Making Facilitation

Proposal Due Date: June 10, 2025

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1. INTRODUCTION

1.1. Issuing Office

The New York State Office for People With Developmental Disabilities (OPWDD) is the New York State executive agency responsible for the provision, regulation, and oversight of services to New York State people with developmental disabilities. Per Mental Hygiene Law § 1.03 (22), individuals served by OPWDD have a documented history of diagnoses that may include, but are not limited to, intellectual disabilities, cerebral palsy, epilepsy, neurological impairments, and autism spectrum disorders. (https://opwdd.ny.gov/eligibility).

OPWDD provides services and supports directly and through a network of approximately 500 nonprofit service-providing agencies, with about 80% of services provided by the private nonprofits and 20% provided by state-run services. OPWDD also provides residential supports and services for approximately 43,000 people with developmental disabilities throughout New York State. OPWDD individuals reside in residential homes, group homes, and supported apartments, as well as institutional settings such as developmental centers and a variety of secure facilities. OPWDD operates approximately 1,500 residential and institutional sites statewide.

1.2. Purpose

OPWDD issues this Request for Proposal (RFP) for Supported Decision-Making (SDM) Facilitation with the intent to award one contract for these services.

OPWDD is seeking a Contractor to develop and maintain a process to provide SDM Facilitation services to allow people with developmental disabilities the opportunity to make full use of SDM consistent with the requirements of New York Mental Hygiene Law Article 82 (https://www.nysenate.gov/legislation/laws/MHY/TEA82) and the SDM regulations proposed at Title 14 New York Codes, Rules, and Regulations (NYCRR) Part 634 (https://opwdd.ny.gov/system/files/documents/2024/07/supported-decision-making-regulation-text_acc.pdf). The services are to provide direct, high-quality sustainable SDM Facilitation services to people with developmental disabilities, and to provide consultation services to independent facilitation providers to ensure that quality SDM Facilitation services are provided.

To make their own decisions, many people with developmental disabilities need the chance to learn about what decisions are, and what steps go into making them. SDM Facilitation is a well-tested three-phase process in which a trained expert (known as a “facilitator”) works first with the person with a developmental disability (known as the “decision-maker”) to help them become better prepared to make decisions for themselves and pursue a Supported Decision-Making Agreement (SDMA). They can then explore which steps in the decision-making process they are good at, determine what areas of their life they want and need support, and from whom they want that support (by designating “supporters”). Then, the facilitator and the decision-maker work together with the decision-maker’s designated supporters to craft an SDMA. The SDMA describes the areas in which the person wants support, the kinds of support they want for decisions in each area, and from whom they want that support. The SDMA is not just a piece of paper; it is a memorialization of a process that the decision-maker and their supporters will use over time, with the flexibility to add or subtract supporters, areas for support, and kinds of support, as circumstances change. On average, the facilitation process takes about 15 one-hour meetings over 6 to 18 months.

The awarded Contractor will be responsible for developing and maintaining the infrastructure necessary to oversee the statewide provision of SDM Facilitation services, supervising first and third party facilitators using the mentorship methodology established under the two New York State funded pilot programs, conducting culturally and linguistically responsive community engagement efforts to raise awareness and increase utilization of SDM by people with developmental disabilities, and ensuring the statewide availability of SDM Facilitation services for people with developmental disabilities.

This RFP will be posted on both the NYS OPWDD Procurement Opportunities webpage at https://opwdd.ny.gov/procurement-opportunities, and on the NYS Contract Reporter (NYSCR) website at https://www.nyscr.ny.gov/, as required by Economic Development Law 4-C, titled “The Procurement Opportunities Newsletter.”

1.3. Calendar of Events

RFP Release Date ..... April 29, 2025
Deadline for Submission of Questions ..... 4:00 p.m., May 8, 2025
Issuance of Response to Questions ..... May 19, 2025
Proposal Due Date ..... 4:00 p.m., June 10, 2025
Anticipated Notification of Tentative Award ..... June 30, 2025
Anticipated Contract Start Date ..... September 1, 2025

NOTE: The above dates are tentative and subject to change at OPWDD's sole discretion.

1.4. Restricted Period

1.4.1. Prohibitions on Procurement Lobbying

Pursuant to State Finance Law (SFL) §§ 139-j and 139-k, this Solicitation includes and imposes certain restrictions on communications between OPWDD and a Bidder during the procurement process. The restricted period begins at the moment of the earliest posting, on a governmental entity's website, in a newspaper of general circulation, or in the procurement opportunities newsletter, of intent to solicit offers or bids, and it ends only after final award and approval of the Contract by OPWDD and, if applicable, the Office of the State Comptroller. Throughout this restricted period, a Bidder is restricted from making contacts to staff other than those so designated, unless it is a contact that is included among certain statutory exceptions set forth in SFL § 139-j(3)(a). Designated staff, as of the date hereof, are identified below. OPWDD employees are required to obtain certain information when contacted during the restricted period and to make a determination of the responsibility of the Bidder pursuant to SFL §§ 139-j and 139-k. Certain findings of non-responsibility can result in rejection for Contract award. In the event of two such findings within a four-year period, the Bidder is debarred from obtaining governmental procurement contracts for four years. Further information about these requirements can be found on the OGS website at https://ogs.ny.gov/acpl/.

1.4.2. Designated Contacts

Pursuant to SFL § 139-j(3)(a), OPWDD identifies the following allowable contacts for communications related to the submission of questions, letters of intent to bid, proposals, and requests for debriefings.

Primary Contacts
Amanda Talavera / Michelle Stephenson
Contract Management Unit
NYS Office for People With Developmental Disabilities
44 Holland Ave, 5th Floor
Albany, NY 12229
Procurement@opwdd.ny.gov

Secondary Contacts
Shannon Plasencia / Marc Kleinhenz
Contract Management Unit
NYS Office for People With Developmental Disabilities
44 Holland Ave, 5th Floor
Albany, NY 12229
Procurement@opwdd.ny.gov

1.4.3. Questions & Answers

Questions from Bidders regarding this RFP must be received by OPWDD in accordance with the Deadline for Submission of Questions included in the Calendar of Events, Section 1.3 of this RFP. All questions must be submitted via electronic mail to the designated contact(s) at Procurement@opwdd.ny.gov as stipulated in Section 1.4.2 of this RFP.

1.4.3.1. Each question must, to the degree possible, cite the specific RFP Section to which it refers. OPWDD reserves the right not to answer questions that are not directly related to this RFP.

1.4.3.2. Bidders are cautioned that any question or inquiry regarding the RFP must be written in generic terms and must not contain pricing information. The inclusion of specific information about a Bidder's Cost Proposal in an inquiry may result in the Bidder's disqualification.

1.4.3.3. Bidders must identify, during the question-and-answer period, any terms and conditions in the RFP that would prohibit a Bidder from submitting a proposal. This process may not be used to negotiate material changes to the terms and conditions set forth in the RFP; any such changes will not be accepted by OPWDD. If a Bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFP, the Bidder shall immediately notify OPWDD of such error(s) in writing to the designated contact(s) identified in Section 1.4.2 of this RFP. If, prior to the proposal due date as specified in Section 1.3 of this RFP, a Bidder fails to notify OPWDD of a known error or an error that reasonably should have been known, the Bidder shall assume the risk of proposing. If awarded the contract, the Bidder shall not be entitled to additional compensation by reason of the error or its correction. Prior to the proposal due date, any clarifications or modifications deemed necessary by OPWDD will be posted to the OPWDD website and the New York State Contract Reporter website provided in Section 1.2 of this RFP.

1.4.3.4. Any change to language, terms, or requirements within the RFP, including all associated attachments, appendices, and exhibits, that is proposed by a Bidder after the question-and-answer period has ended will not be considered by OPWDD, as any such change would not have been offered to all potential Bidders.

1.5. Announcements and Amendments to the RFP

OPWDD will utilize its procurement webpage and the NYS Contract Reporter for the purpose of disseminating information relating to this procurement. OPWDD will post its official answers to Bidder questions and any changes to the RFP resulting from such questions on these sites on or before the Issuance of Response to Questions date as indicated in the Calendar of Events. Bidders are encouraged to monitor these sites: https://opwdd.ny.gov/procurement-opportunities and https://www.nyscr.ny.gov/ on or before the Issuance of Response to Questions date as indicated in the Calendar of Events. Bidders are encouraged to monitor these locations for updates.

OPWDD's responses to questions and notification of amendments to the RFP, if any, will be in the form of a formal addendum that will be annexed to and become part of this RFP and any ensuing contract.

1.6. Term of Contract

OPWDD intends to award one contract for the SDM Facilitation program to one responsive and responsible Bidder as a result of this RFP. The term of the Contract is anticipated to be five-years, with an **anticipated start date of September 1, 2025**. In accordance with SFL § 41, the State shall have no liability under this contract to the Bidder or to anyone else beyond funds appropriated and available for this contract. Continued contract approval beyond the five-year term will be at the sole discretion of OPWDD and the Office of the State Comptroller (OSC), until such time as a replacement contract can be put in place. If this contract is extended, all original terms and conditions will remain the same.

1.7. Conflicts of Interest

Bidders must disclose actual and potential conflicts of interest in the Administrative Proposal (see Section 4.10 below for additional information).

If an organization or person is presently performing consulting services for OPWDD, or has provided consulting services for OPWDD, it may still submit a proposal in response to this RFP but must also satisfy these conflict-of-interest provisions.

After the RFP is awarded, if the awarded Bidder utilizes individuals or entities that violate these conflict-of-interest provisions, the Bidder is subject to termination and reimbursement of contract funding to OPWDD.

1.8. Bidder Minimum Qualifications

Any Bidder submitting a proposal in response to this RFP must meet the minimum qualifications listed below. Information demonstrating these qualifications must be incorporated into the Bidder's Administrative Proposal response using Attachment 17.

The Bidder must meet the following:

1.8.1. A minimum of five years' experience in providing services to people with developmental disabilities or other people enrolled in Medicaid. These services may include, SDM Facilitation, corporate guardianship, or advanced planning services; direct support, respite, and habilitation services; CDPAP or Self-Direction support broker or fiscal intermediary services; or employment services and support.

1.8.2. A minimum of three (3) years professional experience in providing services or assistance to people with developmental disabilities

1.8.3. A minimum of two (2) years professional experience with or expertise in SDM or other decision-making support tools, including guardianship, health care proxies, or powers of attorney.

1.8.4. Submit quote received from eVero for license of SDM Facilitation case management, billing, and data collection system. Bidders must work directly with eVero to obtain this quote.

1.9. Glossary/Definitions

Brokers: Provides support to people in managing their SD services.

Care Coordination Organization (CCO): Care Coordination Organizations / Health Homes provide coordination of health care, behavioral health and developmental disability services to New Yorkers who qualify for OPWDD services

CDPAP: Consumer Directed Personal Assistance Program

Fiscal Intermediary (FI): Manages funds, makes payments, and accounts for expenditures made on behalf of an individual enrolled in SD services.

Front Door: specific process by which people with developmental disabilities connect with OPWDD staff to guide people through the steps to find eligible services.

Home and Community-Based Services (HCBS): type of long-term services and supports provided through the Medicaid program, that enables people with developmental disabilities to live in their homes or communities rather than institutions.

Self-Direction (SD): gives people with developmental disabilities the opportunity to choose the supports, staff, and schedule that fits their lives.

Supported Decision-Making (SDM): as defined in Article 82 of the New York State Mental Hygiene Law, a way by which a person (known as a decision-maker) utilizes support from trusted persons in their life in order to make their own decisions about their life, including, but not limited to, decisions related to where and with whom the decision-maker wants to live; decisions about finances; the services, supports, and health care the decision-maker wants to receive; decisions about work; and decisions to consent or object to any plan of service. Under proposed OPWDD regulations at 14 NYCRR Part 634, formal supported decision-making agreements (SDMA) allow for the full protections and implementation of supported decision-making to allow decision-makers to enforce decisions made in accordance with such an agreement. For an SDMA to be considered formal, certain requirements must be met, including, but not limited to, the completion of an SDM Facilitation process.

Supported Decision-Making Facilitation (SDM Facilitation): a process in which an authorized facilitator works with a person who uses or is seeking to use supported decision-making (known as a decision-maker). The facilitator seeks to help the decision-maker understand how decisions are made, educate them about the steps that go into making a considered decision, and—together with the decision-maker's chosen supporter or supporters—guide the decision-maker through the steps necessary to create a formal supported decision-making agreement, including identifying in which areas the decision-maker feels they need support, what kinds of support they desire, and from whom they wish to receive that support. The facilitator's role is to educate and stimulate reflection and discussion between the decision-maker and their supporter or supporters to empower the decision-maker to design and implement a decision-making process in specific areas of their life that reflects the decision-maker's wishes and needs for assistance in those areas.

2. SCOPE OF WORK

2.1. Current State

SDM Facilitation enables people with developmental disabilities to receive the full protection and benefits of supported decision-making agreements (SDMA) available under the law. Currently, the OPWDD-awarded SDM pilot program, operated by Supported Decision-Making New York (SDMNY), delivers SDM Facilitation services directly, and in collaboration with its provider agency partners, to New Yorkers who wish to pursue an SDMA. As part of this pilot, an SDM-specific case management, compliance, billing, and data collection system was developed in collaboration with the eVero Corporation (eVero).

2.2. Future State

OPWDD's goal for the future is to ensure continuity of SDM Facilitation services by establishing a sustainable program to provide statewide SDM Facilitation services to people with developmental disabilities seeking to use SDM to achieve or regain their decision-making autonomy.

2.3. Overall Program Requirements

Collaborate with OPWDD to support utilization of the "Front Door" for individuals in need of support accessing services and/or care coordination. "Front Door" refers to a specific process by which individuals connect with OWPDD services and supports. Initiated via the OPWDD Information Line (1-866-946-9733), the "Front Door" process guides individuals through the steps involved in finding out if they are eligible for services with OPWDD, then assists in identifying their needs, goals, and preferences to help individuals work on their plan for getting those services. More information on "Front Door" may be found here: https://opwdd.ny.gov/get-started/front-door.

Commit to and demonstrate collaboration with all providers of care management services (such as Comprehensive Health Home Care Management and Basic HCBS Plan Support) with OPWDD-eligible enrollees and members, in order to enable services referrals by care managers for SDM Facilitation services.

Any changes to services offered, the designated contact person, staffing levels, space, or sites will be reported immediately in writing to OPWDD.

OPWDD will be given access to conduct site visits as necessary.

The awarded Contractor will be required to submit to OPWDD an updated Work Plan at least once within any twelve-month period during the term of the Contract.

2.3.1. Work Plan and Required Components

Proposed work plan submitted must include all four components described below as part of a comprehensive and integrative and coordinated program for the statewide provision of SDM Facilitation services. Using these four components, bidders must design and implement effective proposals for programs responsive to statewide need for SDM Facilitation and interest in SDM more generally. The proposal must be responsive to the needs of the populations to be served by these programs, including on the basis of developmental, socioeconomic, racial, ethnic, and cultural perspectives and identities. to be served by these programs, including on the basis of developmental, socioeconomic, racial, ethnic, and cultural perspectives and identities.

The awarded Contractor will be expected to utilize what is in place already, but also expected to develop new processes as needed. Training protocols and process standards set by pilot program must be adhered to and must use the facilitation tracking IT infrastructure developed that is currently place.

2.3.1.1. Component 1 – Establish Program

Establish a program to provide statewide SDM Facilitation services to people with developmental disabilities seeking to explore and use to preserve or regain their decision-making autonomy, to the extent appropriate and desired based on their wishes and acuity. Through this component, the awarded bidder will:

2.3.1.1.1. Ensure the availability of trained facilitators statewide by conducting regular SDM Facilitation recruitment and training programs, and by developing improved and expanded training tools and practices.

2.3.1.1.2. Maintain appropriate staffing levels to directly provide SDM facilitation services; adjust staffing levels based on the demand for SDM Facilitation and availability of authorized independent and third-party SDM facilitators.

2.3.1.1.3. Serve as a central statewide Contractor for the recruitment of people with developmental disabilities interested in exploring SDM and SDM Facilitation; provide guidance, advice, and referrals to individuals, advocates, and families seeking SDM Facilitation providers.

2.3.1.1.4. Establish billing standards for services performed by SDM facilitators, including authorized independent facilitators and third-party partners, authorize reimbursement and provide compensation for such services.

2.3.1.2. Component 2 – Quality Assurance Contractor

Serve as quality assurance Contractor for all statewide SDM Facilitation services, to ensure all authorized providers of SDM Facilitation services provide appropriate and current services, comply with regulatory standards, and adhere to the operational processes and standards developed during the SDM pilot program. Through this component, the awarded bidder will:

2.3.1.2.1. Oversee the provision of third-party facilitation services by authorized third party providers, including independent facilitators, non-profit providers of services certified by OPWDD, and volunteer facilitators

2.3.1.2.2. Maintain appropriate staffing levels to ensure the appropriate supervision ("mentorship") of all facilitators in the state, both in-house and third-party, to ensure all authorized facilitation services offered in New York comply with the OPWDD's proposed regulatory requirements.

2.3.1.2.3. Employing the "mentorship" model developed during both prior state-funded SDM pilot programs, ensure continued adherence by all authorized facilitators to the methodological principles developed by SDMNY.

2.3.1.2.4. Conduct trainings for Care Coordination Organization (CCO) staff to assist CCOs in meeting the regulatory requirements for training of Care Managers and other staff on the principles and processes surrounding the use of by SDM CCO members and enrollees.

2.3.1.2.5. Provide consultation services to assist OPWDD in the continued development of standards for the authorization of facilitators by OPWDD. Develop tools to measure substantive regulatory compliance of all providers of SDM Facilitation services.

2.3.1.2.6. Conduct ongoing continuing education for existing providers of SDM Facilitation services to ensure SDM Facilitation services provided across the state remain current and continue to uniformly reflect advances in accepted facilitation methodologies.

2.3.1.3. Component 3 – Community Education

Develop and implement community education efforts designed to advance the use of SDM in New York, and increase awareness and utilization of SDM, SDM Facilitation, and to educate the general public about the benefits of SDM as an alternative or complement to adult guardianship and other more restrictive decision-making structures.

2.3.1.3.1. Conduct and subcontract for broad consistent outreach and community education efforts to advance the acceptance and use of SDM in New York; advertise the availability of SDM facilitation services; and describe the benefits of SDM versus adult guardianship.

2.3.1.3.2. Educate OPWDD-certified providers on their responsibilities to accept decisions made in accordance with formal SDMA and the clinical implications of providing services to people with such agreements.

2.3.1.3.3. Continue the work of the state-funded pilot programs in advancing the use of SDM among transition-aged youth by developing partnerships and conducting trainings for school districts, schools, and entities involved in providing special education services.

2.3.1.4. Component 4 – Data and Reporting

Collect and analyze data on the provision of SDM Facilitation and supervision/mentorship to effectively monitor the efficacy and scope of SDM engagement statewide; identify common trends, and issues to provide for the ongoing development of facilitation methodology and training; and support ongoing quality assurance and improvement activities.

2.3.1.4.1. Adopt and continue the development of the SDM Facilitation case management, compliance, billing, and data collection system developed by eVero during the 2022-2025 SDM pilot program for use by facilitators and supervisors/mentors. Ensure the continued efficacy and regulatory compliance of the system developed during that pilot and identify areas in need of continued development or improvement.

2.3.1.4.2. Using data collected, identify common trends and themes that may indicate elements of the facilitation process in need of redevelopment or improvement.

2.3.1.4.3. Using data collected, identify common routes of referral to SDM and SDM Facilitation to better understand and inform future culturally and linguistically competent community engagement efforts.

2.3.1.4.4. Annually report to OPWDD on data related to the use of SDM and SDM Facilitation to inform strategic planning and recommendations policy, program, or operational changes based on this data.

3. PROPOSAL REQUIREMENTS

Proposals submitted in response to this RFP must be from single entities. In the case of collaborative ventures, one party must be put forth as the prime Contractor with any partners listed as subcontractors. See Section 4.16 for subcontracting opportunities.

The bid submitted in response to this RFP must be comprised of three separate elements: an Administrative Proposal, a Technical Proposal, and a Cost Proposal, as described in Sections 4, 5, and 6 of this RFP.

3.1. Proposal Validity

Bids must remain open and valid for at least 270 days from the proposal due date, unless the time for awarding the Contract is extended by mutual consent of OPWDD and the Bidder. Following this 270-day period, a Bid shall continue to remain an effective offer, firm and irrevocable, until OPWDD makes a tentative award of the Contract, or the Bidder withdraws the Bid in writing.

3.2. Accuracy of Proposals

Bidders are responsible for the accuracy of their proposals. All Bidders are directed to take extreme care in developing their proposals. Bidders are cautioned to review their proposals carefully prior to Bid submittal, as requests for Bid withdrawals of any type are not likely to be granted. If a Bidder submits a proposal ahead of the submission deadline, they may submit an amended proposal at any time prior to the proposal due date indicated in the Calendar of Events, Section 1.3.

3.3. Extraneous Terms

Proposals must conform to the terms set forth in the solicitation. Due to the requirement of uniformity of language in contracts with all Bidders or prospective Contractors, exceptions that materially alter the Terms and Conditions set forth in this RFP will be grounds for rejection of the proposal or disqualification of the Bidder. The State reserves the right, at its sole discretion, to determine the materiality of the Bidder's stated exception.

Acceptance and/or processing of a Bid shall not constitute acceptance of extraneous terms. OPWDD will not entertain any exceptions to Appendix A – Standard Clauses for New York State Contracts.

Any Bidder submissions on standard, preprinted forms, such as but not limited to product literature, order forms, license agreements, contracts, or other documents, that are attached or referenced with submissions shall not be considered part of the Bid or resulting Contract but shall be deemed included for informational or promotional purposes only.

4. ADMINISTRATIVE PROPOSAL

Bidder must be willing to enter into a contract in accordance with the terms of this RFP, inclusive of all appendices, exhibits, attachments, questions and answers, and any amendments or addenda.

4.1. Document Submission Checklist and Attestation (Attachment 1)

Bidders must meet the minimum qualifications in Section 1.8. Bidders must outline the specific experience that meets these qualifications in their Administrative Proposal.

Bidders must complete and submit the required attestations, agreements, warranties, and certifications contained in Attachment 1 as part of the mandatory Administrative Proposal requirements. The attestation must be signed by an individual who is authorized to contractually bind the successful Bidder.

4.2. Ownership of Work Product

Bidders must indicate an understanding and acceptance that all materials produced, created, improved, maintained, or conceived by the selected Bidder for OPWDD in the fulfillment of their obligations under the Contract (including but not limited to any software, website creation and development, documentation, products, materials, advertising for television, radio, print, internet, or other media) and deliverables that result from services rendered by the selected Bidder to OPWDD shall be turned over to OPWDD within 90 days of the expiration of the contract, or within 30 days of an early termination of the Contract, at no additional cost to OPWDD. OPWDD shall own all rights, title, and interest in said material.

4.3. Non-Collusive Bidding Certification (Attachment 5)

In accordance with SFL § 139-d, if the Contract is awarded based upon the submission of Bids, the Bidder must warrant, under penalty of perjury, that their proposal was arrived at independently and without collusion aimed at restricting competition. Each Bidder must further warrant that, at the time the Bidder submitted their proposal, an authorized and responsible person executed and delivered to OPWDD a Non-Collusive Bidding Certification on the Bidder's behalf. Attachment 5: Non-Collusive Bidding Certification must be completed and submitted with the Administrative Proposal.

4.4. Vendor Responsibility Questionnaire (Attachment 7)

SFL § 163 requires that contracts be awarded based on lowest price or best value to a responsive and responsible Bidder. The State and courts have determined that responsibility includes integrity, previous performance, legal authority to do business in New York State, and financial and organizational ability to perform the contract. As part of the procurement process, Bidders, affiliates, any business entity of which the Bidder is a subsidiary, and subcontractors (where the subcontractor is known at the time of the contract award, their qualifications are a material factor in the award, and the subcontract will equal or exceed $100,000 over the life of the contract) are required to complete the Vendor Responsibility Questionnaire.

Bidders are encouraged to complete the online form, which is available here: https://www.osc.ny.gov/state-vendors/vendrep/file-your-vendor-responsibility-questionnaire. If the Bidder does not have an online Questionnaire that is current and certified, the Bidder must complete a hard copy Questionnaire. The Bidder acknowledges that OPWDD's execution of the Contract will be contingent upon OPWDD's determination that the Bidder is responsible, and that OPWDD will be relying in part upon the Bidder's responses to the Questionnaire in making that determination.

Bidders agree to complete fully and accurately the NYS Vendor Responsibility Questionnaire.

OPWDD shall conduct reviews of each Bidder for responsibility and responsiveness. OPWDD may, at OPWDD's sole discretion, request additional information, including meeting with the Bidder.

If a Bidder is determined by OPWDD to be non-responsible, OPWDD shall inform the Bidder in writing, detailing the exact reasons for the determination. The Bidder shall have 30 days from receipt of this notice to file a written appeal. OPWDD will promptly review the appeal and make a final determination. If OPWDD's finding of non-responsibility remains unchanged, the Bidder shall be removed from consideration for this Contract.

4.5. Procurement Lobbying Requirements (Attachment 10)

On August 23, 2005, Legislative Law and SFL were amended to include provisions for the regulation of attempts to influence State and other governmental entity procurement contracts. SFL Sections 139-j and 139-k impose procurement record requirements relating to lobbying on procurement contracts.

4.5.1. Contracts Subject to Procurement Lobbying Act Requirements

All procurement contracts resulting from procurement transactions initiated on or after January 1, 2006, are subject to the procurement lobbying requirements and additional procurement record requirements.

SFL defines a procurement contract as any contract or other agreement for an article of procurement involving an estimated annualized expenditure in excess of $15,000.

Subject to certain exceptions, an assignment, amendment, renewal, or extension of a procurement contract, or any material change in a procurement contract resulting in a financial benefit to the Bidder, is covered by the provisions of the Act. Backdrop contracts and any contracts resulting from Mini-Bids pursuant to the backdrop contracts are also subject to this law.

This solicitation includes and imposes certain restrictions on communications between OPWDD and Bidders during the procurement process. From the issue date of this RFP until contracts are awarded and approved, Bidders and prospective Bidders are restricted from making any contact, as defined in SFL § 139-j (1) (c), relating to this procurement other than written contact (including email) with the OPWDD staff members named in Section 1.4.2 of this RFP, unless it is a contact that is included among exceptions set forth in SFL § 139-j (3) (a).

4.5.2. Procurement Lobbying Law Certification of Compliance

Attachment 10: Procurement Lobbying Law Certification of Compliance must be completed, signed by the Bidder, and included in the Administrative Proposal, providing the representations outlined below:

The procurement record for every contract must include a determination that the Bidder is responsible in accordance with Bidder responsibility requirements. In addition to the general responsibility determination, for all contracts subject to the State

Comptroller's approval the procuring entity must make a separate responsibility determination as to whether the Bidder has: (i) knowingly and willfully violated the prohibitions against impermissible contacts or certain ethics provisions, or failed to timely disclose accurate and complete information or otherwise failed to cooperate with the procuring entity, or (ii) failed to disclose prior determinations of non-responsibility by any governmental entity for any of the above reasons within the previous four years.

4.5.3. Bidder Certification / Complete Disclosure

Every procurement record must include a disclosure by Bidders regarding non-responsibility determinations within the past four years based on: (i) impermissible contacts or other violations of SFL § 139-j; or (ii) the intentional provision of false or incomplete information to a governmental entity. (Note: To satisfy the requirement regarding Bidder disclosure, the governmental entity must specifically request information regarding prior findings of non-responsibility for violations of SFL § 139-j. A general request for prior findings of non-responsibility is not sufficient.) In addition, any procurement contract award shall contain a certification by the Bidder that the information provided to the procuring entity was complete, true, and accurate.

4.5.4. Contract Clause / Termination Provision

OPWDD is authorized to terminate the contract if the certification (see preceding paragraph) is found to be intentionally false or intentionally incomplete, as contained in Appendix A: Standard Clauses for All New York State Contracts.

Agency Policy and Prohibitions Regarding Permissible Contacts (SFL § 139-j) restricts contacts by Offerors with any governmental entity regarding procurement contracts. Subject to certain exceptions set forth in SFL § 139-j(3), contacts between Offerors and governmental entity personnel, other than the governmental entity's designated contact person(s), are prohibited during the restricted period of the governmental procurement.

The statute requires that "every governmental entity shall incorporate a summary of the entity's policy and prohibitions regarding permissible contacts during a governmental procurement" and that a copy of the governmental entity's procedures be included in the solicitation or Bid documents for all procurement contracts. The statute further requires that if a member, officer, or employee of a governmental entity becomes aware that an Offeror has violated the permissible contacts provisions of the law, such person shall immediately notify the Ethics Officer, Inspector General, or other official of the procuring governmental entity responsible for investigation of such violations.

4.5.5. Affirmation of Compliance

All Bidders must provide a written affirmation that the Bidder understands and agrees to comply with the governmental entity's procedures relating to permissible contacts during the restricted period. See Section 1.4.2 of this RFP for the OPWDD designated contact.

4.5.6. Record of Contacts

For each procurement contract, SFL § 139-k requires that all contacts between an Offeror and a governmental entity during the restricted period be recorded and made a part of the procurement record.

4.6. Diversity Requirements and Equal Employment Opportunities for Minorities and Women

By submission of a Bid in response to this solicitation, the Bidder agrees with all the terms and conditions set forth in Appendix L: Supplier Diversity Requirements.

In accordance with Article 15-a of the New York State Executive Law and in conformance with the regulations promulgated by the Minority and Women's Business Development Division of the New York State Department of Economic Development and set forth at 5 NYCRR Parts 140-144, the Bidder agrees to be bound by provisions to promote equality of economic opportunity for minority group members and women, and the facilitation of minority- and women-owned business enterprise participation.

The MWBE goal established under this RFP is 30% (17% MBE and 13% WBE).

4.7. NYS Service-Disabled Veteran-Owned Businesses

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

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

Bidders are encouraged to contact the Office of General Services' Division of Service-Disabled Veterans' Business Development at 518-474-2015 or VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.

The SDVOB goal established under this RFP is 6%.

4.8. Encouraging the Use of New York Subcontractors and Suppliers (Attachment 4) and New York State Business Usage Form (Attachment 4A)

Bidders are strongly encouraged and expected to consider New York State businesses in the fulfillment of the Contract resulting from this RFP. Such partnering may be as subcontractors, suppliers, protégés or other supporting roles. Attachment 4: Encouraging the Use of New York Subcontractors and Suppliers and Attachment 4A: New York State Business Usage Form must be completed and submitted with the Administrative Proposal.

4.9. Consultant Disclosure Legislation (Attachments 8 & 8A)

Bidders must comply with the requirements of SFL § 163(4)(g), which imposes certain reporting requirements on Contractors doing business as vendors with New York State. In accordance with these reporting requirements, Bidders will complete and submit only Attachment 8A: State Consultant Services Contractor's Planned Employment Form A with the Administrative Proposal. Instructions for completing and submitting Form A are included within Attachment 8.

Appendix I: Consultant Disclosure (Form B) must be submitted by the awarded Bidder by May 15th for each fiscal year (April 1 – March 31) that the Contract term is in effect. Instructions for completing and submitting Form B are included within Appendix I.

While Planned Employment (Form A) is a one-time projection of the planned employment under the upcoming Contract term, the Annual Employment Report (Form B) is a reporting of the actual employment history for the previous fiscal year.

4.10. Conflicts of Interest (Attachment 9)

Throughout the procurement process, Bidders must identify and bring to the attention of OPWDD actual or apparent conflicts of interest, as defined in Section 1.7, as knowledge of such conflicts arise.

If a conflict of interest does or might exist, please describe how Bidder would eliminate or prevent it. Indicate what procedures will be followed to detect, notify OPWDD of, and resolve any such conflicts.

If the Bidder discloses a New York State Commission on Ethics and Lobbying in Government (COELIG) investigation or disciplinary action, a brief description must be included indicating how any matter was resolved or whether it remains unresolved.

Attachment 9: Vendor Assurance of No Conflict of Interest or Detrimental Effect must be completed and submitted with the Administrative Proposal.

A Bidder's proposal will be subject to disqualification, at the sole discretion of OPWDD, if OPWDD determines that the Bidder (including a Bidder organization's parent or subsidiary) has a conflict of interest or the appearance of a conflict of interest that cannot be eliminated or prevented.

Any Bidder awarded a contract under this RFP will have an ongoing obligation to inform OPWDD of any actual or apparent conflicts of interest. Any failure to disclose conflicts of interest after an award may result in administrative actions including, but not limited to, termination of the contract.

4.11. Executive Order 177 Anti-Discrimination Certification (Attachment 15)

In accordance with Executive Order No. 177, the Bidder must certify that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals based on their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law. Attachment 15: Executive Order 177 Anti-Discrimination Certification must be completed and submitted with the Administrative Proposal.

4.12. Sexual Harassment Prevention Policy Certification (Attachment 14)

By submission of this Bid, each Bidder and each person signing on behalf of any Bidder certifies, under penalty of perjury, that the Bidder has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all their employees. Such policy shall, at a minimum, meet the requirements of Section 201-g of the Labor Law. Attachment 14: Sexual Harassment Prevention Policy Certification must be completed and submitted with the Administrative Proposal.

4.13. Tax Law Section 5-A

The Bidder awarded a Contract pursuant to this RFP must comply with the requirements of Tax Law § 5-a, which requires persons awarded contracts valued at more than $100,000 with state agencies, public authorities, or public benefit corporations to certify that they, their affiliates, their subcontractors, and the affiliates of their subcontractors have a valid certificate of authority to collect New York State and local sales and compensating use taxes. A Contractor, affiliate, subcontractor, or affiliate of a subcontractor must be certified as having a valid certificate of authority if such person has made sales delivered within New York State of more than $300,000 during the relevant period. The Office of the New York State Comptroller or other responsible approver cannot approve the Contract unless the Contractor is registered with the New York State Department of Taxation and Finance to collect sales and compensating use taxes.

The Contractor Certification forms, ST-220-TD and ST-220-CA, must be filed in compliance with Tax Law § 5-a. Any Bidder submitting a proposal under this RFP must file the ST-220-TD directly with the Department of Taxation and Finance at the address provided on the form and submit the ST-220-CA to OPWDD.

Bidders can visit the New York State Department of Taxation and Finance website to download the forms and obtain more information at https://www.tax.ny.gov/forms/form_number_order_st_y.htm.

Bidders may call Tax and Finance at 1-800-698-2931 for Contractor sales tax information. For additional information and frequently asked questions, please refer to Tax's web site: http://www.tax.ny.gov/.

Bidders may call Tax and Finance at 1-800-972-1233 for questions relating to Tax Law § 5-a and to a company's registration status with Tax and Finance. For additional information and frequently asked questions, please refer to Tax's web site: http://www.tax.ny.gov/.

4.14. Executive Order No. 16 Prohibiting State Agencies and Authorities from Contracting with Businesses Conducting Business in Russia (Attachment 16)

Executive Order No. 16 provides that "all Affected State Entities are directed to refrain from entering into any new contract or renewing any existing contract with an entity conducting business operations in Russia." The complete text of Executive Order No. 16 can be found here: https://www.governor.ny.gov/executive-order/no-16-prohibiting-state-agencies-and-authorities-contracting-businesses-conducting.

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The Executive Order remains in effect while sanctions imposed by the federal government are in effect. Accordingly, Bidders who may be excluded from award because of current business operations in Russia are nevertheless encouraged to respond to solicitations to preserve their contracting opportunities in case the sanctions are lifted during a solicitation or even after award in the case of some solicitations.

As defined in Executive Order No. 16, an "entity conducting business operations in Russia" means an institution or company, wherever located, conducting any commercial activity in Russia or transacting business with the Russian Government or with commercial entities headquartered in Russia or with their principal place of business in Russia in the form of contracting, sales, purchasing, investment, or any business partnership.
Attachment 16: Certification Under Executive Order No. 16 must be completed and submitted with the Administrative Proposal.

4.15. Vendor Identification Number

To do business with the State of New York, each Bidder is required to obtain a NYS Vendor Identification Number for use in the Statewide Financial System (SFS). If a Bidder does not already have a Vendor ID Number, the NYS Substitute Form W-9 must be completed and submitted directly to OPWDD upon notification of award. The purpose of the Substitute Form W9, which will provide the Contractor's taxpayer identification number, business name, and business contact person, is to allow the State to establish a vendor file in the State Financial System. Note: IRS Form W-9 is not acceptable for this purpose. The form can be found here: https://www.osc.ny.gov/files/vendors/2017-11/vendor-form-ac3237s-fe.pdf.

4.16. Subcontractors

The Bidder is wholly and solely responsible for all actions performed by and products provided by their subcontractors. Subcontractors are subject to the conflict-of-interest provisions located in Sections 1.7 and 4.10 of the RFP.

If the Bidder will have a subcontractor perform part of the work, OPWDD must conduct a separate responsibility review if:

- the subcontractor is known at the time of the contract award; and
- the subcontract is valued at $100,000 or more.

If the above applies, the subcontractor must submit a separate questionnaire using their own Vendor ID (not the contractor's). If the subcontractor does not have one, the subcontractor will need to fill out the W9 form listed on the Library of Attachments and provide it to OPWDD to request a Vendor ID on the subcontractor's behalf.

Joint proposals from two or more entities cooperating in the same proposal but separately seeking funding are not allowed. All payments under any contract resulting from a successful bid will be made only to the prime Contractor.

5. TECHNICAL PROPOSAL— 70 POINTS

The purpose of the Technical Proposal is to establish the qualifications, competence, and capacity of the Bidder to perform the services contained in the RFP. The Technical Proposal must demonstrate that the Bidder and their staff will be able to provide the services described in this RFP.

A Technical Proposal that is incomplete in any material respect may be eliminated from consideration. The following outlines the information to be provided by Bidders. The information requested should be provided in the prescribed format as described in Section 8 of this RFP. Responses that do not follow the prescribed format may be eliminated from consideration. All responses to the RFP may be subject to verification for accuracy.

While additional data may be presented, the following should be included. Please provide the information in the same order in which it is requested. The proposal should present a level of detail sufficient to assure OPWDD of the information's accuracy. Failure to follow these instructions may result in disqualification.

Bidders are required to submit their Technical Proposal behind Attachment 18: Technical Proposal Response.

A Technical Proposal is to be submitted addressing the items listed in this section and **not exceed 30 pages**. Cover pages, table of contents, and any attachments (e.g., charts, graphs, document samples) will not be counted in the total page limit.

5.1. SDM Facilitation Program Summary — 10 points

5.1.1. Proposed Structure

Describe the proposed structure of the SDM Facilitation program, including, but not limited to:

- how the Bidder will ensure statewide availability of SDM Facilitation services:
  - what areas/regions has the vendor provided services in the past, and where does it presently provide services?
  - what areas/regions is the vendor willing to provide services in?
  - how many locations does the vendor have and where are they located?
  - with whom does the vendor anticipate partnering for areas in which it may be unable or unwilling to provide services?
- plans for collaboration with third-party partners to provide facilitation services, predicted allocation of in-house services to third-party referrals, and contingency plans if third party partnerships and collaborations cannot meet demand for facilitation services;
- the process for fielding referrals and designating appropriate facilitators to assign to a prospective service recipient; the methodology that will serve as a basis of the provision of facilitation services;
- allocation of resources and implementation of SDMNY's "mentorship" model of facilitation supervision and other quality assurance efforts;
- frequency, availability, and depth of trainings for prospective facilitators and CCO's, and plans for ongoing continuing education for existing providers of facilitation services;
- how data on SDM engagement and SDM Facilitation generally will be used to inform internal quality improvement; and
- how the Bidder plans to approach and execute culturally and linguistically responsive community engagement and outreach efforts to advance awareness and utilization of SDM in New York State.

5.1.2. Meeting Needs

Describe how the proposed SDM Facilitation program will be designed to meet the unique needs of people with developmental disabilities.

5.1.3. Supporting Program Implementation

Describe how the Bidder's organization/infrastructure will support the successful implementation of the SDM Facilitation program, including evidence of integration into the Bidder's larger organizational structure and/or its existing programs.

5.1.4. Program Structure and Diversity Equity and Inclusion

Describe how the Bidder will ensure the program structure and activities meet cultural and linguistic competency standards and have been designed to promote diversity, equity, and inclusion in all aspects of the SDM Facilitation

program. The Bidder must ensure language accessibility of all SDM Facilitation services and coordinate with OPWDD's Language Access Coordinator to ensure compliance with, at minimum, but not limited to, New York Executive Law § 202-a.

5.2. Organizational Experience and Capacity — 14.5 points

The purpose of this section is for the Bidder to describe the current programs/services of the bidding organization and proposed subcontractors, if applicable, and their capacity to implement and administer the proposed SDM Facilitation program. This may include evidence of prior experience and/or successes with similar initiatives, especially those that have included serving people with developmental disabilities. This may also be reflected by evidence of experience with conflict resolution, mediation, or the provisions of services to other populations commonly subject to guardianship, including but not limited to: older adults, people with psychosocial disabilities and mental illness, transition-aged youth, or People Who Use Drugs (PWUD).

5.2.1. SDM/Guardianship/Similar Experience

Describe the Bidder's experience providing support to people in need of decision-making assistance, or advocacy for those seeking more autonomy in decision-making. This may include experience directly with SDM, or related tools and structures, including, but not limited to, guardianship (including the provision of community or corporate guardianship services), advance directives, health care proxies, Self-Direction (OPWDD), or CDPAP (DOH).

5.2.2. Developmental Disabilities Experience

Describe the experience of the Bidder working with people with developmental disabilities, their families, advocates, and/or service providers.

5.2.3. Length of Experience

Describe the Bidder's length of experience with administrative, fiscal, and programmatic oversight of government contracts, including timely and accurate submission of fiscal and program reports. Indicate any present or prior collaboration with OPWDD.

5.2.4. Employee Experience

Describe the respective experience of employees who will be assigned to SDM program, including explanation and/or demonstration of their experience relevant and appropriate to delivery of SDM Facilitation Bidders must also submit educational qualifications of staff, including educational attainments that include high school diplomas; associate, bachelor's, master's, and/or doctoral degrees; and any relevant certifications.

5.3. Description of Program — 20 points

The purpose of this section is to describe the design and structure of the proposed SDM Facilitation program, including the specific activities that will be implemented as part this program.

5.3.1. System Process Description

Describe how the bidder will establish a program to deliver direct SDM Facilitation services and enable and manage the delivery of additional SDM Facilitation services by third party providers to ensure statewide coverage and availability of SDM Facilitation to anyone eligible to receive SDM facilitation services.

5.3.2. Development and Implementation of Quality Assurance Policies/Procedures

Explain how the Bidder will develop and implement policies and procedures enabling it to effectively serve as quality assurance Contractor for all statewide SDM Facilitation services, while adhering to Article 82 of the Mental Hygiene Law and all applicable state and federal regulations related to the delivery of services to people with developmental disabilities.

5.3.3. Community Education and Outreach

Describe how the Bidder will develop and implement culturally and linguistically responsive community education efforts designed to advance the use of SDM in New York, and increase awareness and utilization of SDM, SDM Facilitation, and educate the general public about the benefits of SDM as an alternative or complement to adult guardianship and other more restrictive decision-making structures.

5.3.4. Data Collection and Processing

Describe how the Bidder will collect and analyze data on the provision of SDM Facilitation and supervision/mentorship to effectively monitor the efficacy and scope of SDM engagement and facilitation training statewide, including how the Bidder proposes to implement the SDM Facilitation case management, compliance, billing, and data collection system developed by eVero during the 2022-2025 SDM pilot program.

5.3.5. Staff Hiring and Retainage

Describe the Bidder's plan to identify, hire, and retain knowledgeable and experienced staff. This should include plans to prioritize hiring individuals with previous experience with SDM and working with people with developmental disabilities more generally.

5.3.6. Compliance and Subcontracting

Explain how the Bidder plans to ensure compliance including use of any subcontractors with all state and federal rules, including those related to conflict of interest, privacy, insurance. This must include descriptions of any proposed subcontractors, especially any current or previous recipients of OPWDD funding or oversight.

5.4. Work Plan — 22 points

Bidders must provide a work plan to include the components listed. See **Section 2** above for additional information. The work plan is used to guide both project execution and project control.

5.4.1. Component 1 – Establish Program

5.4.2. Component 2 – Quality Assurance Contractor

5.4.3. Component 3 – Community Education

5.4.4. Component 4 – Data and Reporting

5.5. Diversity Practices — 3.5 points

Diversity practices are the efforts of contractors to include New York State-certified Minority- and Women-Owned Business Enterprises ("MWBEs") in their business practices. Diversity practices may include past, present, or future actions and policies and include activities of vendors on contracts with nongovernmental entities and governmental units other than the State of New York.

An additional 3½ points will be awarded during the technical evaluation if the Bidder is a NYS-Certified MWBE, SDVOB, or Small Business. While a Bidder may qualify in more than one category, these points are awarded just once.

6. COST PROPOSAL — 30 POINTS

6.1. Proposal Requirements

- Bidders shall submit a completed Attachment 2: Cost Proposal
- All costs must be rounded to the nearest hundredth (two decimal places).
- All costs must be related to the categories described below.

- The proposed costs should be reasonable, cost effective, relate directly to the activities described in the categories, and be consistent with the scope of services outlined in the RFP.

6.1.1. Administrative & Overhead Costs

These expenses should include but are not limited to costs associated with the administration and operation of the successful Bidder's project. Expenses related directly to program activities should not be included here. Examples of expenses may include organizational leadership and administrative staff, agency administrative costs (e.g., payroll software, fiscal services/software), and other overhead.

6.1.2 SDM Facilitation Costs

These expenses should include but are not limited to an intended cost structure for providing direct SDM Facilitation services, allocation and organization of subcontracts and collaboration with third party SDM Facilitation partners, and compensation of independent SDM Facilitation providers. Also addressed should be cost associated with training of facilitators and the continued development of training materials.

6.1.3 Quality Assurance Costs

These expenses should include, but are not limited to, staff time and resources allocated to quality assurance and oversight of SDM Facilitation, staff allocation to ensure appropriate supervision/mentorship, resources (staff, legal, or otherwise) dedicated to ensuring compliance with applicable state and federal law and regulations, and costs associated with training of CCO staff.

6.1.4 Outreach & Education Costs

These expenses should include, but not are limited to, staff time spent planning and executing outreach and education activities, the creation and production of informational/marketing materials, printing, promotional expenses (including both traditional and/or digital marketing, and costs associated with marketing subcontracts), space rental for events, travel to/from outreach events and other costs not specifically listed here.

6.1.5 Data Collection & Reporting

These expenses should include, but are not limited to, ongoing licensing costs related to the case management, compliance, billing, and data collection system developed by eVero during the 2022-2025 SDM pilot program; staff resources, software and hardware costs allocated to collection, analysis, ad reporting of data and reports; any predicted costs associated with expanding or redeveloping adequate IT security infrastructure.

7. INSURANCE REQUIREMENTS

Sections 57 and 220 of the New York State Workers' Compensation Law (WCL) provide that OPWDD shall not enter into any contract unless proof of workers' compensation and disability benefits insurance coverage, or exemption, is produced. Prior to entering into a contract with OPWDD, successful Bidders will be required to verify for OPWDD, on forms authorized by the New York State Workers' Compensation Board, that they are properly insured or are otherwise in compliance with the insurance provisions of the WCL. The forms to be used to show compliance with the WCL are listed below. Any questions relating to either workers' compensation or disability benefits coverage should be directed to the State of New York Workers' Compensation Board, Bureau of Compliance at (866) 298-7830. Failure to provide verification of either of these types of insurance coverage or exemption by the time contracts are ready to be executed will be grounds for disqualification of an otherwise successful proposal.

7.1. Proof of Workers' Compensation Coverage

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

- Form C-105.2 – Certificate of Workers' Compensation Insurance issued by private insurance carrier (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 New York State Workers' Compensation and/or Disability Benefits Coverage.

7.2. Proof of Disability Benefits Coverage

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

- Form DB-120.1 – Certificate of Disability Benefits Insurance; or
- Form DB-155 – Certificate of Disability Benefits Self-Insurance; or
- Form CE-200 – Certificate of Attestation of Exemption from New York State Workers' Compensation and/or Disability Benefits Coverage.

Further information is available on the Workers' Compensation Board's website at http://www.wcb.ny.gov.

7.3. Additional Insurance Requirements

Prior to the start of work the Contractor shall procure at their sole cost and expense, and shall maintain in force at all times during the term of this Agreement, policies of insurance as set forth in Appendix E, written by companies authorized by the New York State Insurance Department to issue insurance in the State of New York and with an A.M. Best Company rating of A or better. OPWDD may, at its sole discretion, accept policies of insurance written by a non-authorized carrier or carriers when Certificates and/or other policy documentation is accompanied by a completed Excess Lines Association of New York (ELANY) Affidavit. Nothing herein shall be construed to require OPWDD to accept insurance placed with a non-authorized carrier under any circumstances.

The Contractor shall deliver to OPWDD evidence of such policies in a form acceptable to OPWDD within ten days of notification of award, or the Bid will be subject to dismissal without further review. **Appendix E Insurance Requirements** within the attached Contract Boilerplate includes all applicable insurance coverages and conditions for any Contract resulting from a successful Bid. The Contractor must comply with these requirements to remain responsible under the terms of the Contract.

8. PROPOSAL SUBMISSION REQUIREMENTS

8.1. Specific Requirements

8.1.1. Bidders must submit a complete response to this RFP that satisfies the requirements set forth in **Attachment 1: Document Submission Checklist and Attestation**. Failure to do so may render the Bidder's proposal nonresponsive.

8.1.2. Each Bidder is expected to provide OPWDD with information, evidence, and demonstrations that will make possible a contract award that best serves the stated interests of OPWDD and the State of New York. Bidders are given wide latitude in the degree of detail they offer or the extent to which they reveal plans, designs, systems, processes, and procedures.

8.1.3. Bidders should prepare their proposals simply and economically, providing a straightforward and concise description of their abilities to satisfy the requirements of this RFP. Proposals containing a preponderance of boilerplate text are discouraged. Emphasis in each proposal should be on completeness and clarity of content.

8.1.4. Failure of a Bidder to provide the appropriate information or materials in response to each stated requirement or request for information may result in lower scores during the evaluation or in determination of a nonresponsive proposal. Responses to complex RFP requirements that are stated in a form semantically equivalent to "Bidder agrees to comply" may be rejected for non-responsiveness at the discretion of OPWDD.

8.1.5. All proposals submitted in response to this RFP must be written in the English language, with quantities expressed using Arabic numerals and United States Dollars ($ USD), as applicable.

8.1.6. The State of New York will not be held liable for any cost incurred by the Bidder for work performed in the preparation and production of a Bid or for any work performed prior to the formal execution of a Contract or approval by the State Comptroller, if required.

8.2. Required Submission Documents

The documents listed below are included in the Library of Attachments, which will be included with the RFP. All documents requiring signature must be signed by an authorized representative of the Bidder. Please review the terms and conditions. Certain documents will become part of the resulting contract that will be executed between the successful Bidder and OPWDD. Please refer to Section 8.4 Packaging of Proposal for more information on how to package the proposal:

Attachment 1	Document Submission Checklist and Attestation
Attachment 2	Bid Quote Sheet / Cost Proposal
Attachment 3	Contractor Information Sheet
Attachment 4	Encouraging the Use of New York Subcontractors and Suppliers
Attachment 4A	Business Usage Form
Attachment 5	Non-Collusive Bidding Certification
Attachment 7	Vendor Responsibility Questionnaire Certification
Attachment 8	Consultant Disclosure Reporting Requirements - Contractor Instructions
Attachment 8A	FORM A
Attachment 9	Vendor Assurance of No Conflict of Interest or Detrimental Effect
Attachment 10	Procurement Lobbying Law Certification of Compliance
Attachment 11	EEO Staffing Plan
Attachment 12	MWBE Utilization Plan
Attachment 12A	MWBE Application for Waiver
Attachment 13	SDVOB Utilization Plan
Attachment 13A	SDVOB Application for Waiver
Attachment 14	Sexual Harassment Prevention Policy Certification
Attachment 15	Anti-Discrimination Certification
Attachment 16	Businesses Conducting Business in Russia
Attachment 17	Minimum Qualifications Summary
Attachment 18	Technical Proposal Response Cover Page

8.3. Late Submissions

Bidders assume all risks for timely, properly submitted deliveries. The time of Bidder Submission receipt is determined by OPWDD according to the clock located at the address provided in Section 1.4.2 of this RFP. Bidders are strongly encouraged to arrange for delivery of proposals to OPWDD prior to the proposal due date and time provided in Section 1.3 of this RFP.

Physical Bids must be received at the location designated in Section 1.4.2 of this RFP at or before the proposal due date and time established in Section 1.3 of this RFP. Electronically submitted Bids must be received at the mailbox given in Section 8.5 at or before this same date and time. Any Bid received after the established time will be considered a late Bid. A late Bid may be rejected and disqualified from award.

Notwithstanding the foregoing, a late Bid may be accepted at the OPWDD Commissioner's sole discretion where (i) no timely Bids meeting the requirements of the Solicitation are received, (ii) in the case of a multiple award, an insufficient

number of timely Bids are received to satisfy the multiple award, (iii) the Bidder has demonstrated to the satisfaction of the Commissioner that the late Bid was caused solely by factors outside the control of the Bidder, or (iv) the Commissioner has determined that it is in the best interests of the State to accept the Bid. In no event shall the Commissioner be under any obligation to accept a late Bid. The basis for any determination to accept a late Bid shall be documented in the procurement record. All submissions and accompanying documentation shall become the property of the State of New York and shall not be returned.

8.4. Proposal Redactions - Freedom of Information Law / Trade Secrets

All proposals may be disclosed or used by OPWDD to the extent permitted by law. OPWDD may disclose a proposal to any person for the purpose of assisting in evaluating the proposal or for any other lawful purpose. All proposals will become State agency records, which will be available to the public in accordance with New York State's Freedom of Information Law (FOIL) (Public Officers Law, Article 6, Sections 84-90). FOIL promotes the public's right to know the process of governmental decision-making and grants maximum public access to governmental records. The proposal of the successful Bidder and the proposals of unsuccessful Bidders may be subject to disclosure under FOIL.

However, pursuant to Section 87(2)(d) of FOIL, a State agency may deny access to those portions of proposals or portions of a successful Bidder's contract that are "trade secrets" or submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and that, if disclosed, would cause substantial injury to the competitive position of the subject enterprise. Please note that all information that a Bidder may claim as proprietary, copyrighted, or rights-reserved is not necessarily protected from disclosure under FOIL.

If there is information in a Bidder's proposal that a Bidder claims meets the definition set forth in Section 87(2)(d), the Bidder must provide a list, clearly and specifically identifying any portion of the proposal that the Bidder believes constitutes proprietary information entitled to confidential handling as an exception to the Freedom of Information Law. See the Contract Boilerplate, Section 11 Public Information and Freedom of Information Law (FOIL).

Failure to identify the information that a Bidder believes should be protected by Section 87(2) (d) may result in such information being disclosed if a request is received.

It is a Bidder‘s responsibility to consult an attorney with any questions the Bidder may have about New York State's Freedom of Information Law. All work products described herein may also be subject to FOIL disclosure.

The State will not honor any attempt by a Bidder either to designate their entire Bid proposal as proprietary and/or to claim copyright protection for their entire proposal.

The Contractor must provide to the State all information, records, and other written material it produces, possesses, or relies upon if such material is the object of a legitimate request to the State pursuant to the Freedom of Information Law.

Determinations as to whether the materials or information may be withheld from disclosure will be made in accordance with FOIL at the time a request for such information is received by OPWDD. Blanket assertions of proprietary material will not be accepted, and failure to specifically designate proprietary material may be deemed a waiver of any right to confidential handling of such material.

A Bidder making a physical submission is required to include a USB flash drive with redacting of proprietary information and clearly labeled as such per Section 8.5.2 of this RFP. A Bidder making an electronic submission must include an email attachment with the redacting of proprietary information; the attachment must be clearly named to avoid any confusion.

8.5. Packaging of Proposal

Bidders must submit a complete proposal as outlined in this Section 8 of this RFP. A proposal that does not comply with these requirements may be deemed nonresponsive.

Proposals may be submitted physically or via email. Physical submission must be made by U.S. mail, delivery service, independent courier, or hand delivery to the OPWDD building at the address given in Section 1.4.2. Electronic submission must be made to procurement@opwdd.ny.gov.

Physically submitted proposals must be on USB flash drives containing searchable PDF or Excel files as required per this RFP for each one of the proposal sections described in Sections 4-6 of this RFP. Bidders additionally may include a printed hard copy as desired. Should a disparity be found between any paper document and any electronic document, the electronic document shall be deemed the ruling document.

Electronically submitted proposals should include all required documents as three direct attachments to the email, presenting the Administrative Proposal, the Technical Proposal, and the Cost Proposal as individual elements. Proposals submitted with links to external cloud storage systems for downloading will not be accepted.

All USB flash drives must be unencrypted. Failure to provide them unencrypted may result in disqualification. Similarly, **email submissions must not be password protected or encrypted in any way**.

OPWDD must receive complete proposals on or before the proposal due date and time as indicated in Section 1.3 of this RFP. If proposal packaging labels are not sufficient to identify the contents, OPWDD reserves the right to open packages for the purpose of identifying the source and contents of the package.

All proposals and accompanying documentation become the property of OPWDD and ordinarily will not be returned.

8.5.1. Physical Submission

Three separately sealed envelopes containing the following elements must be submitted and labeled as follows:

Administrative Proposal / Bidder Name / OPD-2024-39 SDM Facilitation

- 1 USB flash drive containing all attachments required in Section 8.2, except 2 and 18.

Technical Proposal / Bidder Name / OPD-2024-39 SDM Facilitation

- 1 USB flash drive containing:
  - Any proposal redactions as described in Section 8.4 of this RFP
  - Attachment 18 - Technical Proposal Cover Page with proposal to follow.

Cost Proposal / Bidder Name / OPD-2024-39 SDM Facilitation

- 1 USB flash drive containing Attachment 2 - Bid Quote Sheet / Cost Proposal

Combined Package

All three separately sealed envelopes may be combined into one package for mailing. It must be clearly indicated on the outside of the package that a proposal is enclosed. The proposal response must include the Bidder's street address. Proposals with a post office box must include a street address. Complete proposals must have a label on the outside of the package that states the following:

PROPOSAL ENCLOSED (bold, large print, all capital letters)

Title of RFP: Supported Decision-Making Facilitation
Solicitation Number: OPD-2024-39
Bidder's Name and Address:
Proposal Submission Date:

Bidder should transmit proposals in a form such that a receipt is obtained indicating the date and time of delivery and recipient.

Physical submissions must be sent by U.S. Mail, by courier, or by delivery service (e.g., FedEx, UPS, etc.) in a sealed package to the attention of the designated contact(s) at the address provided in Section 1.4.2 of this RFP. Proposals may also be hand-delivered as outlined in Section 8.6.

8.5.2. Electronic Submission

One email with three separate email attachments (more as needed) containing the following elements must be submitted and labeled as follows:

Admin_Bidder Name_SDM Facilitation _OPD-2024-39

- All attachments required in Section 8.2 combined into a single pdf, except 2 and 18.

Tech_Bidder Name_SDM Facilitation _OPD-2024-39

- Attachment 18 – Technical Proposal Cover Page with proposal to follow.
- Any proposal redactions as described in Section 8.4 of this RFP should be a separate attachment, clearly named as such.

Cost_Bidder Name_SDM Facilitation _OPD-2024-39

- Attachment 2 – Bid Quote Sheet / Cost Proposal (Excel document), which must be kept separate from any other documents submitted as part of the Cost Proposal.

PLEASE NOTE: The subject line of the submission email must include the RFP number to this solicitation.

8.6. Building Access Procedures for Hand Deliveries

To access the OPWDD office building, all visitors must enter through the main entrance at the front of the building, present photo identification at the security desk, and comply with all requirements and procedures applicable to visitors. Bidders who intend to hand deliver proposals or utilize independent courier services should allow extra time to comply with these procedures. Bidders hand delivering their proposals should ask the security personnel at the security desk to call any of the designated contracts in Section 1.4.2 from the Contract Management Unit. Building access procedures may change or be modified at any time. Bidders assume all risks for timely, properly submitted hand deliveries.

9. AWARD

9.1. Method of Award

OPWDD will make an award for the services described in this RFP to a responsive and responsible Bidder on a Best Value basis. Best Value means that the proposal that optimizes quality, cost, and efficiency among responsive and responsible Bidders shall be selected for award (SFL Article 11, § 163).

The evaluation process will be conducted in a comprehensive and impartial manner.

The Evaluation will consist of three parts:

1. The Administrative Proposal is pass/fail as outlined in Section 9.2. If a Bidder fails the Administrative Proposal, the Bid will be rejected, and no scoring will occur.
2. The Technical Proposal will be weighted for a maximum of 70 points.
3. The Cost Proposal will be weighted for a maximum of 30 points.

An evaluation committee (the “Committee”) will be designated and will be comprised of OPWDD staff. OPWDD reserves the right to make changes in the Committee’s membership as necessary.

Proposals determined to comply with the requirements set forth in this RFP and the submission requirements outlined in Section 8 of this RFP will be evaluated based on the criteria detailed in the sections below.

The Commissioner reserves the right to accept or reject any and all Bids, or separable portions of Bids, and waive technicalities, irregularities, and omissions if the Commissioner determines the best interests of the State will be served.

The Commissioner, at his or her sole discretion, may accept or reject illegible, incomplete, or vague Bids and his or her decision shall be final. A conditional or revocable Bid that clearly communicates the terms or limitations of acceptance may be considered, and Contract award may be made in compliance with the Bidder's conditional or revocable terms in the Bid.

9.2. Administrative Proposal Evaluation (Pass/Fail)

After the proposal opening, each proposal will be screened for completeness and conformity with the proposal submission requirements outlined in Section 8 of this RFP. Bidders should utilize the Attachment 1: Document Submission Checklist and Attestation to ensure that all required documents are included in their submissions. Incomplete responses, the failure to complete as specified, and/or the failure to provide any of the required functionality may result in a proposal being deemed nonresponsive and the disqualification of the Bidder. The Bidder will be notified accordingly.

Submitted proposals will be evaluated on a pass/fail basis to determine whether the Bidder satisfies the RFP's Minimum Qualifications as specified in Section 1.8 of this RFP. Proposals that fail to meet the minimum qualifications and/or to include the required attestations will be deemed nonresponsive and will not be further evaluated, and the Bidder will be notified accordingly. Passing proposals will proceed to the Technical and Cost Proposal evaluations. Bidders may still be disqualified if it is later determined that the Bidder did not meet all RFP minimum qualifications and therefore should not have qualified to move on to the Technical and Cost Proposal evaluations stage.

9.3. Technical Evaluation (70 points)

The technical evaluators will independently review and score each Technical Proposal. The criteria against which each proposal will be evaluated are described in Sections 4-6 of this RFP. Final technical scores will be determined by averaging the Technical Evaluators' scores for each responsive Bidder.

Technical requirements for scoring:

- Section 5.1: SDM Facilitation Program Summary (max 10 points)
- Section 5.2: Organizational Experience and Capacity (max 14.5 points)
- Section 5.3: Description of Program (max 20 points)
- Section 5.4: Work Plan (22 points)
- Section 5.5: Diversity Practices (3.5)

9.4. Cost Evaluation (30 points)

Bidders' Cost Proposals will be scored by the fiscal evaluators, separately from the Technical Proposals. The Cost Proposal evaluation will be based on the Bidder's costs associated with the criteria listed in Section 6 of this RFP:

- Administrative and Overhead Costs;
- SDM Facilitation;
- Quality Assurance Costs;
- Outreach and Education Costs; and
- Data Collection and Evaluation Costs.

The Bidder with the lowest price will be awarded the full points allocated to the Cost Evaluation. If a Cost Proposal is found to be nonresponsive, that proposal may not receive a cost score and may be eliminated from consideration.

The score for each of the remaining Bidders will be proportionate to the lowest Bidder. The formula for the evaluation of the other Bidders' proposals will be (lowest cost Bidder / Bidder being evaluated cost) x maximum points.

9.5. Final Composite Score

OPWDD will make a single contract award to the eligible and qualified Bidder whose proposal receives the highest aggregate score, thereby providing the best value to the State of New York. OPWDD will compile the financial and technical

scores, compute the aggregate score for each proposal, and rank the proposals from highest to lowest. The aggregate score for each proposal will consist of an average of all scores (rounded to two decimal places) from the technical evaluators added to the score from the cost evaluation (rounded to two decimal places).

Should more than one Bidder obtain the same total score, the tie will be broken using the highest Technical Proposal score. If both Technical and Cost Proposal scores are equal, the Commissioner shall make the determination based on the best interests of the State, or tentative award will go to the first Bidder.

9.6. Notification of Award

The tentative awardee will be advised of their selection by OPWDD through the issuance of formal written correspondence indicating the proposed award, sent via email. All Bidders will be notified of the award or non-award of their Bid via email. Should OPWDD and a tentative awardee be unable to reach agreement as to the terms of the Contract within a reasonable time, as determined by OPWDD, OPWDD may withdraw the award and proceed to the next highest scoring Bidder.

9.7. Form of Contractual Agreement

Following notification of award, the successful Bidder will be expected to sign a contract with OPWDD. This RFP, along with any other solicitation documents, will be incorporated in its entirety into the final contract as Appendix J, Solicitation Documents. The successful Appendix A, Standard Clauses for New York State Contracts, becomes part of all New York State contracts and is incorporated into the Contract.

9.8. Debriefing

Pursuant to SFL § 163(9)(c), any Bidder may request a debriefing regarding the reasons their Bid did or did not result in an award. A debriefing shall be requested by a Bidder within fifteen calendar days of the release by OPWDD of a notice in writing of award or non-award. The purpose of the debriefing is to provide information to the Bidder about the scoring and evaluation of the requesting Bidder's Bid. This is also an opportunity for a Bidder to learn how to improve future Bids. OPWDD will not provide a Bidder with information relating to another Bidder's Bid.

9.9. Bid Protest Policy

9.9.1. Formal Written Protests

Final agency decisions or recommendations for award generally may be reconsidered only in the context of a formal written protest as described below. Any Bidder or prospective Bidder who believes that there were errors or omissions in the procurement process, or who otherwise has been aggrieved in the drafting or issuance of a Bid solicitation, Bid evaluation, or contract award, may present a formal complaint to OPWDD and request administrative relief (via "formal protest") concerning such action.

A formal protest must be submitted in writing to procurement@opwdd.ny.gov at OPWDD. A formal protest must include the name of the RFP and the award date. Also, it must include a statement of all legal and/or factual grounds for disagreement with an OPWDD specification or purchasing decision, a description of all remedies or relief requested, and copies of all applicable supporting documentation.

9.9.2. Deadline for Submission of Formal Protests

OPWDD must receive formal protests concerning errors, omissions, or prejudice, including patently obvious errors in the Bid specifications or documents, at least ten calendar days before the date set in the solicitation for receipt of Bids.

OPWDD must receive formal protests concerning a pending contract award within seven calendar days after the protesting party ("protester") knows or should have known of the facts that form the basis of the protest.

9.9.3. Review and Final Determination of Protests

Protests will be resolved through written correspondence. However, the protester may request a meeting to discuss a formal protest, or OPWDD may initiate a meeting on its own motion, at which time the participants may present their concerns. Either the protester or OPWDD may elect to decline such a meeting.

Where further formal resolution is required, the Commissioner or Associate Commissioner shall designate an OPWDD employee ("designee") to determine and undertake the initial resolution or settlement of any protest.

The designee will conduct a review of the records involved in the protest and provide a memorandum to the Commissioner or Associate Commissioner summarizing the facts as determined by the designee, an analysis of the substance of the protest, and a preliminary recommendation. The Commissioner or Associate Commissioner shall: (i) evaluate the procurement team's findings and recommendations; (ii) review the materials presented by the protesting party and/or any materials required of or submitted by other Bidders; (iii) if necessary, consult with agency Counsel; and (iv) prepare a response to the protest.

A copy of the protest decision stating the reason(s) upon which it is based shall be sent to the protester or their agent within 45 calendar days of receipt of the protest, except that upon notice to the protester, such period may be extended. The protest decision is final and will be recorded and included in the procurement record.

9.9.4. Appeals

Upon receipt of OPWDD's determination of a protest, a protester has ten business days within which to file an appeal of the determination with the OSC Bureau of Contracts. The appeal must be filed with Brian Fuller at the New York State Office of the State Comptroller, Bureau of Contracts, 110 State Street, 11th Floor, Albany, NY 12236. The protester's appeal must contain an affirmation, in writing, that a copy of the appeal has been served on OPWDD and any other party that participated in the protest. In their appeal, the interested party shall set forth the basis on which it challenges the contracting agency's determination. The OSC Bureau of Contracts will conduct its determination of the appeal in accordance with its established policy.

10. OPWDD RESERVED RIGHTS

OPWDD reserves all rights with respect to proposals, including, but not limited to, the right to:

- accept late Bids when in the best interest of the State;
- reject any or all proposals received in response to the RFP;
- withdraw the RFP at any time, at OPWDD's sole discretion;
- make an award under the RFP, in whole or in part;
- disqualify any Bidder whose conduct and/or proposal fails to conform to the requirements of the RFP;
- seek clarifications and revisions of proposals;
- use proposal information obtained through site visits, management interviews, and the State's investigation of a Bidder's qualifications, experience, ability, or financial standing, and any material or information submitted by the Bidder in response to OPWDD's request for clarifying information, in the course of evaluation and/or selection under the RFP;
- amend the RFP specifications, prior to the Bid opening, to correct errors or oversights or to supply additional information as it becomes available; NOTE: Any such modification issued on or before the due date for proposals shall go to all entities that have requested a copy of this RFP, and to the entities on the original Bidders' list, and may be posted to the OPWDD website and the New York State Contract Reporter website provided in Section 1.2 of this RFP; after that date (or an amended date, as the case may be), notification will be only to entities who have submitted proposals. OPWDD's right to issue modifications of this RFP permits any addition or deletion of requirements as OPWDD may deem appropriate.
- direct Bidders, prior to the Bid opening, to submit proposal modifications addressing subsequent RFP amendments;
- change any of the scheduled dates;
- eliminate any mandatory, nonmaterial specifications that cannot be complied with by all the prospective Bidders;

- waive any requirements that are not material;
- negotiate with the successful Bidder within the scope of the RFP in the best interests of the State;
- conduct contract negotiations with the next responsible Bidder, should the agency be unsuccessful in negotiating with the selected Bidder;
- utilize any and all ideas submitted in the proposals received;
- require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors to ensure a full and complete understanding of a Bidder's proposal and/or to determine a Bidder's compliance with the requirements of the solicitation;
- waive minor irregularities and/or omissions in Bids, if in the best interest of the State;
- at its sole discretion, reject illegible, incomplete, or vague Bids; and
- resolicit offers from the Bidder community by republishing and readvertising this RFP at any time.

Also, OPWDD shall have unlimited rights to disclose or duplicate, for any purpose whatsoever, all information or other work product developed, derived, documented, or furnished by the Bidder under any Contract resulting from this RFP.

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