

**THIRD SET OF QUESTIONS & RESPONSES FOR RFP
OS/MLSP-15-001-S**

82. What are the factors that the Maryland Legal Services Program (MLSP) will consider in determining if current Contractors shall maintain their current cases? (1.1.3)

RESPONSE: Offerors must demonstrate that they are capable in all respects of carrying out the services required in the RFP. The criteria listed in Section 5.2 will be used to evaluate the Technical Proposal.

83. Is an “*emergency review*” case a “case” for purposes of this contract? e.g. *A case that has been closed and returns on the shelter docket for emergency review?*

RESPONSE: While the Department cannot anticipate the terminology used in all 24 jurisdictions, if a closed case is reopened and placed on the docket for an emergency hearing before the Circuit Court, it would qualify as a case for the purposes of the contract.

84. What is MLSP’s justification for its proposed role in the hiring and firing of the Contractor’s staffing, including prior approval of the MLSP Project Manager? Hiring and firing is a management right and is not subject to the control of a third party, including MLSP. (1.23)

RESPONSE: The Department must ensure that all key personnel providing services under the contract are qualified to do so and meet any minimum requirements set forth in the RFP.

85. Part C.3 of this section states that “*the State Project Manager and/or other appropriate State personnel involved with the Contract may interview the proposed substitute personnel prior to the Contractor replacing the key personnel.*” Is MLSP implying that the employee-employer relationship is between the State Project Manager and the proposed substitute personnel? What concern of the State is this provision intended to address?

RESPONSE: No. See response to question 84.

86. What problem does the replacement provision in section 1.23 (D)(3) attempt to address? What is the purpose of involving the State Project Manager in replacement decisions for key personnel? Again, is MLSP implying that the employee-employer relationship is between the State Project Manager and the key personnel? What concern of the State is this provision intended to address?

RESPONSE: See responses to questions 84 and 85.

87. With respect to Section 3.1, what constitutes “*the economic climate of the state*”? The RFP states that “[e]ach year the number of proceedings may increase or decrease in correlation to

the economic climate of this State.” What is the correlation between Maryland’s economic climate and the relative change (increase or decrease) in the number of proceedings? Please provide a concrete example of this concept.

RESPONSE: The Offeror shall describe its understanding of the services being requested under the RFP and how the work will be done.

88. Pursuant to Section 3.2.2. Continuing Legal Education, Contractors will need to obtain twelve (12) hours of continuing legal education, which is less than that required (16 hours) under the current contract. This decrease in the number of credit hours may negatively affect Maryland’s current “A” grade by national child advocacy group, First Star, in its National Right to Counsel Report Card. (See attached report card for Maryland) As such, what is the rationale for requiring less legal training hours?

RESPONSE: The twelve hours of continuing legal education is the minimum required under the contract. However, Contractors may and are encouraged to gain as many continuing legal education training as they can.

89. Which of the hearings listed in 3.2.3.1 (A-N) are billable events?

RESPONSE: Please refer to Section 3.6.3 for types of billable proceedings/hearings.

90. What is the meaning of a “*commitment hearing*” listed a G in 3.2.3.1?

RESPONSE: See response to question 52.

91. What does “*legal representation to a client which is consistent with the client’s legal interest*” mean”? (3.2.3.3 (A)) Is this an additional requirement to the Guidelines and the Rules?

RESPONSE: The attorney shall be an advocate for his client consistent with the child’s wishes or advocate for what is in the best interest of a child that lacks considered judgment.

92. Explain the distinction between the role of the child’s counsel as stated in 3.2.3.3 (A) and 3.2.3.3 (B). Is section 3.2.3.3 (B) an additional requirement to the Guidelines and the Rules? If so, please explain.

RESPONSE: It is up to the Offeror to describe how it intends to provide the services required under the RFP. Please note that the RFP is not designed to mimic the The Maryland Judiciary Foster Care Court Improvement Project Guidelines of Advocacy for Attorneys Representing Children in CINA and Related TPR and Adoption Proceedings (Guidelines), and as such, may include additional requirements.

93. What is the rationale for eliminating the current practice of allowing client visits to be conducted by an “investigator, case worker, licensed social worker and/or staff attorney”? (See Scope of Services –OS/MLSP-14-EMERG) (3.2.3.5(C))

RESPONSE: The RFP does not prohibit non-attorney staff from visiting clients. However, the non-attorney visit may not be counted as one of the In-Person Contacts.

94. What is the definition of “placement?” For example, a client could be placed in a hospital for a brief period of time and the attorney could visit the client there. Would the hospital be considered a placement for purposes of this contract? Under what circumstances would a placement be something other than a foster home?

RESPONSE: A ‘placement’ is the assignment of a person to a suitable place based on the circumstances.

95. Where do the Guidelines or the Rules support the preference to see the child in the child’s placement? (3.2.3.5 (A) (C)).

RESPONSE: Contractors must comply with the requirements of the RFP.

96. Is it required that a child be seen in his/her placement? If so, how can the Contractor comply with the requirement to see a child in placement if the child prefers contact outside of his/her placement? (3.2.3.5 (A))

RESPONSE: Contractors must comply with Section 3.2.3.5 (A).

97. Can a Contractor bill separately for an appeal if the Contractor does not attend the oral argument because the argument was cancelled? (3.2.3.7 NOTE)

RESPONSE: If the Contractor meets the other requirements relating to appeals, a Contractor will be paid if there is no oral argument.

98. What is the state’s definition of “necessary client case information”? (3.2.4.1 (A))

RESPONSE: Information necessary for the Department to monitor the Contractor’s performance and compliance with the contract without violating confidentiality, which includes the items in Section 3.2.4.1 (A).

99. Pursuant to what law is MLSP requiring that information about “other children involved in the same proceedings,” who are not siblings and not represented by the Contractor, be kept in a client’s file. What is the relevance of this information? (3.2.4.1(A) xviii vs. xix)

RESPONSE: The information requested is required pursuant to the RFP.

100. Under what circumstances would MLSP share confidential client information with another State agency, and what is the timeline for being notified that MLSP intends to release client information? (3.2.4.1(B))

RESPONSE: Information may be shared with State auditors, for example, and would be required in the timeframe included in the notice.

101. What is the rationale for imposing a penalty of \$150/day for submission of late reports? What constitutes a “late” submission?

RESPONSE: Any deliverable or report that is not received by the specified due date is considered late. Failing to comply with certain contract requirements will result in a financial penalty.

102. What is the reason that monthly reports cannot be hand delivered even by licensed messenger services? (3.2.4.2)

RESPONSE: Unless reports are required to be submitted electronically for which there will be a computer generated time/date stamp, reports submitted with invoices shall be submitted via U.S. Mail with a postmark, which is required for as a Departmental internal control. See Section 3.6.1.

103. What would constitute a justifiable reason for a delay in submitting reports? (3.2.4.2)

RESPONSE: Any request for an extension of time to submit a report will be reviewed on a case by case basis. However, Contractors should make every effort to submit reports timely.

104. What if the delay for filing a report is justified; does the \$150/day apply automatically? (3.2.4.2)

RESPONSE: If an extension is granted, the report will not be considered late.

105. What is the purpose of the extensive documentation requirements for appellate advocacy, since that information is available on line on the Administrative Office of the Courts website, and/or through research tools such as Lexis and Westlaw? (3.2.4.2F)

RESPONSE: Contractors are required to comply with the requirements of the RFP.

106. What are “*ad hoc*” reports; please provide specific examples? What type of notice would MLSP provide for the necessity of such reports? (3.2.4.2 (J))

RESPONSE: An “*ad hoc*” report is any report that is not listed in the RFP. The timeframe will vary depending on the type and need for the report.

107. What, if any, role can volunteers play in the provision of services under this contract? If none, what is the rationale for not allowing volunteers? (3.2.4.7 and 3.3.3 “Criminal Background Check”)

RESPONSE: Volunteers may not be attorneys assigned to represent client under the contract and may not act as subcontractors. See Section 3.2.4.7

108. What is the rationale for requiring a supervisor to be physically present during all court-ordered proceedings where an attorney has less than two years of experience? Is this practice consistent with the level of supervision required of the Department of Social Services’ attorneys and parents’ counsel? (3.2.4.7E)

RESPONSE: The Department has determined that two years’ experience is the minimum for an attorney to represent children. Those who do not meet the minimum shall be supervised per the RFP. MLSP does not control or direct the legal representation of Department of Human Resources’ or parents’ counsel.

109. What is meant by “*Contractors shall not co-mingle revenues associated with the Contract with the Contractors’ other revenue sources*”? (3.2.4.11) As a fee-for-service contract, the revenue generated from the successful completion of the work is that of the Contractor. As such, what is the State’s interest in how the Contractor chooses to use that revenue?

RESPONSE: Per the RFP, Contractors shall have accounting procedures in place that will separate all revenues and expenses associated with this contract from other revenue sources.

110. The RFP states that the “*Contractor shall provide to the State’s auditors, the State Project Manager or designee, any and all information request by the State, which may include the Contractors’ client case information, including statistical case information, **client case files and/or records** (emphasis added)*” What is MLSP’s rationale for expecting Contractors to violate attorney-client privilege and share confidential attorney work product information with State auditors, or the State Project Manager or designee? (3.2.4.13(A))

RESPONSE: The Department does not expect nor require Contractors to violate the attorney/client or attorney work product privilege. However, Contractors are not permitted to use attorney/client or attorney work product privilege as a shield to prevent MLSP from engaging in contract monitoring to verify that legal representation is be provided in accordance with the contract terms.

111. Pursuant to what statute can the state perform in-court observations, thereby overriding the family’s right to a confidential hearing, see CJP 3-810(b)? (3.2.4.13B)

RESPONSE: The Department will follow all appropriate State laws and any rules put in place by the various courts or judges. In-court observations of the Contractor's performance is an element of the Department's responsibility to engage in contract monitoring and the information collected is used solely for that purpose.

112. Since MLSP will have contemporaneous records regarding the amount of money paid to each Contractor, for what particular information and purpose is MLSP requiring Contractors to produce a costly, time consuming, independent financial audit of "*the Contract monies earned*" at the end of each contract year. For a Contractor with a financial period ending December 31st, will MLSP accept that Contractor's earliest annual, independent audit that occurs after the end of the proposed CINA/TPR contract year?

RESPONSE: See response to questions 32 and 35.

113. What is the purpose of the ID badge provision, and to which facilities is this section referring? (3.3.1 (A)(B))

RESPONSE: It is the policy of the Department of General Services to require every person visiting the Department to have proper identification, which may include a company badge, State badge or visitor's badge.

114. If the Contractor does not have automobiles, what would be the purpose of automobile insurance?

RESPONSE: In the event transportation is provided to the client, for example, automobile insurance is required.

115. Section 4.4.2.4 requires the submission of Appointment Orders of a Contractor's currently-assigned caseload. Not only is this requirement overly burdensome, but pursuant to Courts and Judicial Proceedings Section 3-827 and Juvenile Rule 11-121(a), all orders in CINA and TPR proceedings are confidential. To comply with this section, a Contractor would have to violate court rules. MLSP should already have the information on current caseloads in the monthly staffing and billing reports. What, therefore, would be MLSP's legal basis for expecting the Contractor to violate the above noted statutory provisions?

RESPONSE: Offerors shall demonstrate how they intend to meet the requirements of the RFP. See also, response to questions 15 and 39.

116. What should the Table of Contents for the Technical Proposal include? (4.4.1)

RESPONSE: The Table of Contents required for the Technical Proposals should be given its ordinary meaning.

117. Is MLSP asking for three references from each jurisdiction for which the Offeror is bidding or three in total? (4.4.2.9)

RESPONSE: Three total.

118. What weight is assigned to each component of the technical proposal?

RESPONSE: There are no scores or percentages associated with each component of the Technical Proposal.

119. What particular factors could lead the procurement officer to decide that the lowest price offered was not, in fact, "*most advantageous to the State*"?

RESPONSE: Please refer to the Technical Proposal Evaluation Criteria, Section 5.2 and the Selection Procedures in Section 5.5.

120. Will the lowest price offered always be considered the "*most advantageous to the State*"?

RESPONSE: No.

121. The financial proposals (according to Section 5.3 of the RFP) will be ranked according to units that are measured in dollars – with the lowest dollar figure receiving the highest ranking. What units of measurement will be used to rank the technical proposals?

RESPONSE: Technical Proposals will be ranked depending on the number of proposal received, beginning with number 1, which is the highest ranked.

122. What method of final, overall ranking will be used to determine that the proposal with a lower financial ranking (i.e., a higher price) can supersede a proposal with a higher financial ranking (i.e., a lower price)? (5.5.2.2)

RESPONSE: The evaluation criteria and selection process and award determination are spelled out in Section 4 and 5 of the RFP.

123. What would lead MLSP to modify the cap on the price-per-case that is set forth in the new RFP, and instead substitute a flat, initial price-per-case (e.g. \$1,500) and allow for flat, modest price increases over the terms of the projected base contracts and the two option periods? Would MLSP consider and implement this approach?

RESPONSE: The Department will not change this requirement.

124. What is the basis for capping the contract at \$1,450 per case in the base years (2015 – 2018), and in the option years (2018 – 2020) at \$1,500?

RESPONSE: The Department has determined that the pricing structure is reasonable.

125. Considering the minimum requirements of 8 hours of work per case at a caseload ratio of 1:100, plus the actual costs associated with salary and benefits, liability, malpractice, travel, space, and other direct and indirect costs of contract administration, explain the basis for the determination that \$1,450 per case (from 2015 – 2018) and \$1,500 per case (2018 – 2020) are adequate and reasonable rates of compensation?

RESPONSE: See response to question 124.

126. If the contract is capped, what is the purpose of having Offerors bid a financial proposal? What is the reason for not simply deciding the contract on the quality of technical proposals?

RESPONSE: This is a competitive sealed proposal solicitation, which requires both technical and financial proposals and evaluations.

127. The RFP, in **Section 5.3**, states that the lowest price-per-case submitted will be considered to be the “*most advantageous to the State.*” What specific aspects of the proposal evaluation and final selection process would prevent a “race to the bottom”, wherein proposals with lower priced bids routinely receive higher overall rankings whether or not the accompanying technical proposals are highly ranked?

RESPONSE: The Department intends to comply with the criteria stated. It is up to the Offeror to propose the best price for the services it intends to offer.

128. Does the procurement officer agree that the lowest price per case submitted does not guarantee the provision of the highest quality of legal representation?

RESPONSE: Awards will be based on consideration of both the services proposed (technical) and the price proposed (financial), with greater weight given to the technical factors.

129. What is the intended payment scheme for voluntary placements? Is a voluntary placement to be charged with a FLFUP?

RESPONSE: Yes. See Sections 3.2.3.1 and 3.6.3.

130. ATTACHMENT A – Contract. If there is no MBE requirement for this contract, what is the purpose of Section 41.1 (1-5)?

RESPONSE: The attached contract is a sample. Any provision that is not applicable will be designated as such in the final contract.

131. ATTACHMENT S – Projected Staffing Form. How should an Offeror complete this form for staff with exactly 2, 5, or 10 years of experience in the profession and/or who have been employed by the Offeror for exactly 2, 5, or 10 years?

RESPONSE: The Projected Staffing Form should demonstrate the number of years of professional experience, not just the employment history with the Contractor.

132. Pursuant to the terms of the existing contracts, MLSP is compensating Maryland Legal Aid at a price-per-case (determined in 2006) that is greater than the FLFUP cap prices (for cases extending to 2020) in the new RFP. What is the highest price-per-case that MLSP will pay Maryland Legal Aid for the current cases that Maryland Legal Aid might retain during each of the new contract periods (i.e., base and option years)?

RESPONSE: Existing cases and new cases will be billed at the price proposed under this RFP.

133. Each attorney employed at our firm has undergone a criminal background check, must we complete this again and submit with the technical proposal?

RESPONSE: See response to question 56.

134. What is planned to ensure that confidential information from Attachment U-2, MLSP Current Client Case List, does not go to anyone but MLSP, despite it being required in the technical proposal?

RESPONSE: Please see Amendment 3.

135. Can we submit our existing case listings in electronic format on the same flash drive as appointment orders instead of paper copies?

RESPONSE: Yes.

136. Can you send Attachment CC as a separate document so that we can fill out for each employee?

RESPONSE: Please see attached word version of Attachment CC.