



**STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
Office of Budget & Management Analysis
Bureau of Fiscal Services
Building 9, Room 234
W.A. Harriman Campus
Albany, NY 12227**

Patricia Mitchell, Chief Financial Officer
Eric Mostert, Assistant Director, Budget & Accounting Services
Catherine Golden, Assistant Director, Procurement Services

**Response to Bidder Questions and Amendment 1 to Request for Proposal 09-31
Out of State Collection Services for Delinquent Tax Debt**

December 14, 2009

To All Potential Bidders:

Attached is the Departments response to bidder questions. In addition, the Department is amending RFP 09-31, Out of State Collection Service for Delinquent Tax Debt to update the Schedule of Events, update the Bidder's Checklist and include Attachment 14, Public Officers Law Response form.

All other requirements and conditions remain as indicated in the RFP.

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-31
Out of state Collection Services for Delinquent Tax Debt
Question and Answer Document

#	RFP Section	RFP Page #	Question	Answer
1			What is the relationship between this contract and the contracts awarded as a result of RFP Collection Services/05-107 from 2005? Does this contract replace one of those vendors or would this contract supplement that one?	There is no relationship between RFP 09-31 and 05-107. The services required in this RFP are different in scope. There is currently no contract for these services.
2			Why is this contract bid at this time?	The NYS Department of Taxation and Finance is soliciting proposals from qualified entities to represent the Department in the collection of outstanding New York State Tax liabilities in cases where the debtor and/or the debtor's source of income or assets are thought to be located outside the state of New York.
3			If applicable: a. Who are the incumbents? b. How long have the incumbents been providing the requested services? c. How many vendors are you seeking to award a contract? d. Has the current contract gone full term? e. Have all options to extend the current contract been exercised?	a. Please see the answer to question 1. b. Please see the answer to question 1. c. The Department is seeking one vendor for RFP 09-31. d. Please see the answer to question 1. e. Please see the answer to question 1.
4			To the greatest extent possible, please provide the following data: a. Current contingency fees of other fees currently being billed by any incumbent(s), by category. b. Total historical average age of accounts at placement (at time of award and/or on a going-forward basis), by category if relevant or possible. c. Actual dollar amount of monies paid last year	Please see the answer to question 1.

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-31
Out of state Collection Services for Delinquent Tax Debt
Question and Answer Document

#	RFP Section	RFP Page #	Question	Answer
			<p>to any incumbent(s), if applicable by category.</p> <p>d. The monthly or quarterly number of accounts placed with the vendor(s) by category.</p> <p>e. The monthly or quarterly value of accounts expected to be placed with vendor(s) by category.</p> <p>f. Historical rate of return or liquidation rate either provided by any incumbent(s) or anticipated as a result of this procurement.</p>	
5			If applicable, will all accounts held by any incumbent(s) or any backlog be moved to any new vendor(s) as a one-time placement at contract start up?	Not applicable. Please see the answer to Question 1.
6			Can you please provide greater explanation of your expectations to any required subcontracting to minority-owned, women-owned, or other types or categories of small or "disadvantaged" businesses? For example, what is required with the proposal, and what is required to comply during the term of the contract?	There is nothing required to be submitted as part of the proposal response to the RFP. Upon award there are Schedule of Utilization forms which will be required to be filled out as well as continuing compliance reports at intervals to be established by DTF, see Appendix B of the RFP.
7			What do you expect ongoing monthly placements (# of accounts and \$ volume) will be after initial placement volume?	The Department does not have any specific expectations. Ongoing monthly placements will be based on the number of cases resolved and returned by the contractor.
8			When an account is returned by a contractor do you intend to place it with a second contractor?	There will not be a second contract awarded as a result of this RFP.
9			Will monthly placed accounts consist only of new accounts yet to be placed on this contract?	It is possible for additional assessments to join an existing collection case at any time.

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-31
Out of state Collection Services for Delinquent Tax Debt
Question and Answer Document

#	RFP Section	RFP Page #	Question	Answer
10	M. Inventory Placement	27	You indicate that the contractor will be replenished for resolved, non-productive or returned cases. Is it your intent to keep the contractors portfolio volume the same over the contract term regardless of the amount of inventory you have available for placement?	It is the Department's intention to keep the portfolio consistent during the first months of the Active Collection phase. As stated in Section IV M. Inventory Placement, the Department reserves the right to modify case placement at its sole discretion.
11	S. Reports	30	You indicate that the Department will prescribe a format and frequency for the reports listed. When will this occur?	It is the Department's intention to prescribe a format and frequency for the reports listed during the Development Phase. Additional reports may be required as needed during the Active Collection Phase.
12			Can the contractor pursue an IPA if the debtor resides in New York?	No. The vendor should return the case if it is determined the taxpayer is now residing in New York.
13	Contractor Fees Paid	32	When, after month end, will the Department complete the reconciliation and send its fee calculation to the contractor?	It is the Department's intention to complete the reconciliation and send its fee calculation within the first few business days of the following month.
14	Department Programs	33	For limited programs including Amnesty, can recalled cases include those with payment arrangements established and litigation cases?	Yes.
15	Files	41	Will all assignments for a case or debtor be made at the same time or is it possible to receive additional assignments on a case?	It is possible for new assessments to join a collection case at any time.
16			Will the Department accept one subcontractor to fulfill the MBE/WBE requirements if that subcontractor meets both qualifications and is assigned 10% of the contract?	Even if a vendor has dual certification in NYS as both a minority and as a women owned business, one entity cannot claim as both a minority-owned and a women-owned business for one contract to meet established goals.

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-31
Out of state Collection Services for Delinquent Tax Debt
Question and Answer Document

#	RFP Section	RFP Page #	Question	Answer
17			Will accounts have automatic judgments pursuant to state code or have the accounts gone through the due process of law/actual suit?	Cases placed will have tax warrants filed by the Department. Please see Publication 125 "The Collection Process": http://www.tax.state.ny.us/pdf/publications/general/pub125_1002.pdf
18			Is the vendor required to have an office located in the State of New York to perform this contract?	No.
19	Section III.D Financial Stability.	20	Audited financial statements are due 90 days of the fiscal year end, can this be extended to 120 days? We generally receive our audited financial statements back from our third party auditor within 120 days.	No.
20	Appendix B2	136	Directory of Certified Business. Does NY State have an on-line Web site with the directory of certified businesses that can be accessed? Many state and government agencies provide this at no cost.	NYS has an on-line web site with the directory of certified businesses. It can be viewed at http://www.nylovesmwbe.ny.gov
21	Section II. D.	18	What is the Departments mythology in creating assessments?	The Department creates assessments based on the full tax liability not being paid timely. Assessments may result from taxpayer's filed return or an audit conducted by the Department.
22	Section III. B. 3	20	Would the Department consider eliminating the 10,000 judgment account requirement if a proposed vendor can clearly demonstrate they are prepared to perform the required services to the desired standard and they also have a vast amount of experience working on tax debt and filing judgments on tax debt?	No, a qualified entity must have had experience (i) obtaining judgments against debtors annually on behalf of one client, or (ii) taking collection action against judgment debtors annually on behalf of one client ; and, the total volume of cases for (i) and (ii) must equal or exceed 10,000 for one client.
23	Section IV. D	21	Is there an evaluation advantage if the prime contractor is located within the State of New York?	No.

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-31
Out of state Collection Services for Delinquent Tax Debt
Question and Answer Document

#	RFP Section	RFP Page #	Question	Answer
24	Section IV. G.	22	What is the definition of “no access” in the context of the contractor’s employers not working on the contract?	No access means the area where work is done pertaining to this contract is restricted only to those working on this contract.
25	Section IV.J Training	22-23	Is the Department intending for the initial training of contractor’s staff to occur at the contractor’s site or at the Department’s site?	The Department intends for the initial training of contractor’s staff to occur at the contractor’s site.
26	Section IV.J Training.	22-23	Would the Department consider allowing the contractor to send just the collection management staff and trainers to the Department’s site to lessen the burden on both parties?	This will be sufficient for non-system related training.
27	Section IV.M and N Inventory Placement and Retention.	27	In regards to "non-productive accounts" to be returned, how does the Department determine if an account should be considered non-productive?	The Department expects the contractor to determine if a case is non-productive.
28	Section IV.O Deceased Tax Debtors.	27	What level and/or amount of evidence does the Department require to establish the validity of the debtor’s deceased status?	Acceptable evidence would be copies of death certificates and printed confirmation on Roots.com or Lexis Nexis.
29	Section IV.O Incarcerated Tax Debtors.	29	Does the remaining length of sentence factor into the ability to return an account? If so, what is the timeframe?	The Department expects the contractor to make that determination.
30	Section V.A.2 Collection Plan v.	37	What is the Departments time table to move accounts from CCED once a judgment has been established to the vendor?	There is no specific time table for cases to be placed with a contractor once the Department issues tax warrants. Cases need to be considered “unresolved” before being placed with the contractor. Please see Section II B Unresolved Case Pool, page 17.
31	Section II.C Volume.	17	What is the CCED’s liquidation rate per state, value, and age strata?	The Department does not currently pursue litigation in states other than New York. Therefore, the information requested is unavailable.
32	Section II.C Volume.	17	Should the awarded vendor expect an immediate placement of the \$778M available for assignment?	Only a portion of the \$778 million will be immediately placed. The remaining portion may be placed over time

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-31
Out of state Collection Services for Delinquent Tax Debt
Question and Answer Document

#	RFP Section	RFP Page #	Question	Answer
			Or, would this be placed over a period of time?	depending on rate of resolved and returned cases. Please see Sections IV M. Inventory Placement N. Inventory Retention, page 27.
33	Section II.C Volume.	17	Can the state provide an estimate for annual placement volume beyond the current amount available?	Please see the answer to Question 32.
34	Section II.C Volume.	17	Can the Department provide an estimate of the average cases per taxpayer?	Each taxpayer will have one collection case containing one or more assessments.
35	Section II.C Volume.	17	What is the Department's expected recovery rate for the current inventory (the \$778M)? Can the State provide any historical recovery data on similarly aged debt?	The Department does not have any specific recovery rate expectations.
36	Section VI. Financial Proposal.	45	Is there a limit to the fee rate the State is willing to pay? Does the State have a range in mind for the awarded fee rate?	This procurement will be awarded based on best value. A Best Value award is one that optimizes quality, cost and efficiency among responsive and responsible offerors.
37	Section VI	45	Section VI articulates the requirements for the financial proposal. Can the Contractor add the collection fees to the principal amount owed or must the fees be subtracted from the principal remitted to the DTF?	The contractor's fees cannot be added to the amount owed by the tax debtor. Thus, if the contractor is able to effectuate a recovery from the tax debtor, the full amount of the recovery must be remitted by the tax debtor to the DTF. The DTF will then remit the vendor's fee to the vendor utilizing the following formula: total recovery amount x the fixed rate % fee.
38	Section B	14	Section B articulates tax warrants. What percentage of accounts already have judgments in place?	Approximately 63% of the cases are fully warranted. Approximately 7% are partially warranted.
39			Is there currently a Contractor performing these services for the DTF? If so, who is and what is their contingency rate?	Please see response to Question 1.

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-31
Out of state Collection Services for Delinquent Tax Debt
Question and Answer Document

#	RFP Section	RFP Page #	Question	Answer
40	Section P	29	Section P articulates that the Contractor must direct all payments to the Department. Please elaborate on how Contractor fees will be paid.	Please see Section IV X. Contractor Fees Paid, page 32 and response to question 37.
41	Section L	23	Section L articulates insurance requirements. Must the Contractor submit proof of insurance with the proposal or only at time of contract execution?	See RFP Section III A and Attachment A for Insurance requirements at bid submission. Section L defines the insurance requirements at the time of contract execution.
42			Regarding the independent contractor referred to on page 14 of the RFP: <ul style="list-style-type: none"> • Who is the independent contractor? • What is their rate/fee schedule? • What are their recovery amounts? • How long have they been under contract? • For each of the past two years, please provide: <ul style="list-style-type: none"> ○ Number and dollar of accounts placed ○ Total collections ○ Fees paid • How long does the independent contractor work cases (“soft” collections) before the out-of-state tax liabilities would be eligible for this program? 	Please see the response to questions 1, 31 and 45.
43			What is the current success rate of out-of-state collections (past 12 months out-of-state tax liability collections / out-of-state tax liability due)?	Please see the answer to Question 1.
44			What percent of current out-of-state collections comes via “soft” collections vs. litigation?	See response to questions 31 and 42.

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-31
Out of state Collection Services for Delinquent Tax Debt
Question and Answer Document

#	RFP Section	RFP Page #	Question	Answer
45			Will accounts assigned to your current vendor be transferred to the new vendor? If so, can a separate fee be proposed for these services since they would be considered secondary placements? If the DTF plans on referring these previously assigned accounts, please provide a breakdown of number of accounts, age, average balance, and dollar value.	It is the Department's intention to give lower priority to assigning cases placed with our current vendor under this outsourcing. There will be no separate fee allowed for cases considered to be "second placements" based on previous outsourcing.
46			Please provide additional information regarding any penalty or interest fees and how they are to be applied.	Please see the following links on our website: http://www.tax.state.ny.us/pit/income_tax/interest_and_penalties.htm http://www.tax.state.ny.us/taxnews/int_curr.htm
47	Section III.B, Debt Collection Experience,	19	Section III. B., Debt Collection Experience requires the bidder or its subcontractors to have five years of experience collecting debts on behalf of clients since November 1, 2004. Does DTF require five years of experience to be with government taxes as it applies to litigation and judgments or will other litigation experience, not necessarily for government taxes, suffice?	Other litigation experience, not necessarily for government taxes will suffice.
48	IV	22	Section IV Subsection G (page 22) states that "Contractors and their subcontractors must maintain a secure area for conducting all work relative to this contract." It goes on to define a secure area as one that provides "No access by Contractor employees who are not directly involved with this contract." Does this requirement also apply to subcontractors? We intend to subcontract certain portions of the work relative to the contract to collection law firms	Section IV subsection G states that subcontractors are also required to adhere to this requirement.

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-31
Out of state Collection Services for Delinquent Tax Debt
Question and Answer Document

#	RFP Section	RFP Page #	Question	Answer
			<p>who generally operate in a “pooled” environment. While their offices are secure and do not provide access the general public, work relative to this contract will be performed next to work being performed for other clients of the law firm. This would also be true for our IT and back-end support personnel.</p>	
49	Exhibit D	107	<p>Exhibit D, Article III (page 107) requires the contractor to instruct tax debtors to remit payments directly to the DTF and also states that under no circumstance should the contractor instruct a tax debtor to remit payment directly to the contractor. We would strongly prefer to instruct tax debtors to remit payment directly to us or to our subcontractors (depending on the phase of the collection process) as this would enable us to better manage performance against this contract and will minimize risk of FDCPA violation by ensuring that collection activity ceases as soon as payment in full is made. We would in turn remit these payments in gross to the DTF at a mutually agreed-upon frequency. Will the DTF consider allowing us to operate in this manner?</p>	<p>No. Payments must be remitted directly to DTF. In such instance where the payment is received by the Contractor, it must be redirected to the Department on a daily basis, without deducting any Contractor fees, in the manner prescribed by the Department. DTF will provide weekly update files to the vendor indicating payments received.</p>
50			<p>Would the DTF consider allowing a bidder to quote two-tiered pricing, i.e., a lower percentage for cases that don’t require litigation? Such a two-tiered pricing structure would be advantageous to the DTF.</p>	<p>No.</p>
51	III	29	<p>Would the Department accept payments that will be directly debited from a debtor’s bank account that</p>	<p>No.</p>

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-31
Out of state Collection Services for Delinquent Tax Debt
Question and Answer Document

#	RFP Section	RFP Page #	Question	Answer
			the Contractor has established? These types of payments do not go through the Department's web site, nor are they ACH debits undertaken by the debtors themselves. These payments will be undertaken by the Contractor on a monthly basis upon approval by the debtor, so it will act as a different transaction channel.	
52	III	33	Despite its best efforts, if the Contractor is not able to report a complaint to the Department within 48 hours because the account has not been assigned yet and will not appear in the Client Services Support department until possibly after the 48-hour window, what would be the consequences of not reporting complaints to the Department within 48 hours?	The Department recognizes there may be unique situations and is willingly to work with the contractor if the contractor is making all possible efforts.
53			Would the Department please provide the name of the incumbent for this current contract?	Please see the answer to Question 1.
54			Would the Department please specify the number of years that the incumbent has been under contract? How many contract extensions has the incumbent received?	Please see the answer to Question 1.
55			What is the incumbent Contractor's current contingency percentage?	Please see the answer to Question 1.
56			Would the Department please provide performance statistics of the incumbent for the entire contract in terms of total annual collection dollars and related liquidation percentages?	Please see the answer to Question 1.
57			Regarding case volumes, would the Department	Approximately 12% of the 90,743 assessments

NYS Department of Taxation and Finance
Request for Proposal (RFP) #09-31
Out of state Collection Services for Delinquent Tax Debt
Question and Answer Document

#	RFP Section	RFP Page #	Question	Answer
			please advise on the number of assessments (i.e., non-filers) that will be referred versus the number of tax liabilities?	referenced in Exhibit 1 - Case Characteristics are considered Delinquency assessments for failure to file representing an approximate total value of \$94 million.
58			How often will additional cases be referred? Would the Department tell us the approximate number of ongoing referrals that will be made?	Please see the answer to Question 32.
59			Should there be a new agency awarded the contract, will it receive the cases that remain in the incumbent's inventory as well as receiving new work?	It is the Department's intention that cases placed with the incumbent be returned to the Department to be re-evaluated. Please see the answer to Question 45.
60			If New York State decides to offer Tax Amnesty to its tax debtors, will the referred cases remain with the out-of-state collection agency? Please advise on the procedures for this possibility.	No. In any amnesty program legislated, not all cases will be eligible. Of the cases that are eligible, not all of the debtors will apply for Amnesty. Therefore, as each Amnesty program is legislatively mandated, procedures will be developed as necessary.
61			What other tax types besides PIT and BUSINESS will be referred under this contract?	The cases may contain assessments for any of the over thirty tax types administered by the Department. The majority will be Personal Income Tax and the three primary business tax types: Sales, Withholding, and Corporation.
62			Will there be a need for a Lock Box for remittance purposes?	No. All taxpayer payments will be remitted directly to the Department.
63			Please define what is meant by "progressive collection work" as used by CCED to the extent that cases will be worked prior to being referred to the collection agency.	Please see Publication 125 "The Collection Process": http://www.tax.state.ny.us/pdf/publications/general/pub125_1002.pdf

NYS Department of Taxation and Finance
 Request for Proposal (RFP) #09-31
 Out of state Collection Services for Delinquent Tax Debt
 Question and Answer Document

#	RFP Section	RFP Page #	Question	Answer
64			Will "good faith efforts" relative to MBE & WBE entities be scored during the evaluation process? If so, kindly explain the expectations of this "good faith effort" and scoring methodology.	MWBE requirements are not a scored part of the evaluation process.
65			Would the Department be amenable to allowing the collection agency to bill CCED separately for court expenses and filings versus having these costs taken out of the collection agency's revenue entitlements?	No. See Section VI of the RFP.

Schedule of Events

Issuance of RFP	11/23/09
Deadline for filing the "Offerer Affirmation and Understanding of, and Compliance with, Procurement Lobbying Guidelines" (Appendix B-7 Attachment 2, see also Section III C6)	12/07/09 2 p.m. EST
Deadline for Submission of Questions	12/07/09 2 p.m. EST
Department Response to Bidder Questions	12/14/09
Deadline for Submission of Follow-up Questions	12/21/09 2 p.m. EST
Department Response to Bidder Follow-up Questions	01/05/10
Deadline for Filing the "Notification of Intent to Bid" (Appendix B-1 Attachment 3)	01/12/10
Proposals Due	2/05/10 2 p.m. EST
Notification of Intent to Award	4/05/10
Deadline for Contract Signature	5/05/10
Network Connectivity Test Begins	5/30/10
Development Phase Begins	6/10/10
Start Date for Active Collections	No later than six months after the start date of the Development Phase unless extended at the sole discretion of the Department

Attachment 1 – Bidder’s Checklist

Volume 1

Qualifying Requirements

- Attachment A – Insurance Response Form
- Attachment B – Debt Collection Experience Response Form
- Attachment C – Financial Stability Response Form
- Attachment D – Attestation Response Form

Technical and System Response Requirements

- Attachment E – Case Management System Response Form
- Attachment F – Collection Plan Response Form
- Attachment G – Electronic Data File Exchange Response Form
- Attachment H - System Functionality Response Form
- Attachment I – Technical Staff Response Form
- Attachment J - Security and Confidentiality Response Form
- Attachment K – Collection Experience Response Form
- Attachment L –Reference Response Form
- Attachment M – Alternate Reference Response Form

Volume 2

Administrative Requirements

- Cover Letter
 - Proposed Extraneous Terms
 - Request for Exemption from Disclosure
- Attachment 4 - Vendor Responsibility Questionnaire
- Attachment 5 - MacBride Fair Employment Principles Form
- Attachment 6 - Designation of Prime Contact
- Attachment 7 - Non-Collusive Bidding Certification
- Attachment 8 – Offerer Disclosure of Prior Non-Responsibility Determinations
- Attachment 9 - Contractor Certification of Compliance with State Finance Law 139-k (5)
- Attachment 10 - (DTF-202) Agreement to Adhere to Secrecy Provisions
- Attachment 11 - Acknowledgment of Confidentiality of Internal Revenue Service Tax Return Information
- Attachment 12 - Subcontractor List
- Attachment 14 – Public Officer’s Law

Volume 3

Financial Proposal

- Attachment 13 - Financial Rate Response Form

Attachment 14 - PUBLIC OFFICERS LAW

§73.4 Business or professional activities by state officers and employees and party officers.

(a) No statewide elected official, state officer or employee, member of the legislature, legislative employee or political party chairman or firm or association of which such person is a member, or corporation, ten per centum or more of the stock of which is owned or controlled directly or indirectly by such person, shall (i) sell any goods or services having a value in excess of twenty-five dollars to any state agency, or (ii) contract for or provide such goods or services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised, directly or indirectly, by a state agency or officer thereof, unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding. This paragraph shall not apply to the publication of resolutions, advertisements or other legal propositions or notices in newspapers designated pursuant to law for such purpose and for which the rates are fixed pursuant to law.

(b) No political party chairman of a county wholly included in a city with a population of more than one million, or firm or association of which such person is a member, or corporation, ten per centum or more of the stock of which is owned or controlled directly or indirectly by such person, shall (i) sell any goods or services having a value in excess of twenty-five dollars to any city agency, or (ii) contract for or provide such goods or services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised directly or indirectly, by a city agency or officer thereof, unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding. This paragraph shall not apply to the publication of resolutions, advertisements or other legal propositions or notices in newspapers designated pursuant to law for such purpose and for which the rates are fixed pursuant to law.

(c) For purposes of this subdivision, the term "services" shall not include employment as an employee.

I have read and agree to comply with the requirements of Public Officer's Law Section 73 (4) a.i. I further acknowledge that failure to comply shall justify contract termination by the Department and may result in the rejection of bids or proposals for future work with the Department.

By _____
(Signature) (Title)

Firm's Legal Name _____
(Date)