

New York State Office of Indigent Legal Services

Funding Announcement

Upstate Model Parental Representation Office Grant

NYS Office of Indigent Legal Services Request for Proposals

The Office of Indigent Legal Services (Office) and nine-member Indigent Legal Services Board (Board) were created by legislation enacted in 2010, found in Executive Law Article 30, sections 832 and 833. As part of its statutory mission “to monitor, study and make efforts to improve the quality of services provided pursuant to Article 18-B of the county law,” the Office, operating under the direction and pursuant to policies established by the Board, assists county governments in the exercise of their responsibility to provide effective and meaningful representation of persons who are legally entitled to counsel but cannot afford to hire an attorney. The assistance provided by the Office and Board includes distributing state funds and targeting grants to counties in support of innovative and cost-effective solutions to enhance the quality of indigent legal services.

Timelines for This Request for Proposals

RFP Release Date	Monday, March 20, 2017
Questions Due By	Tuesday, April 11, 2017 (Q & A period closed)
Questions Posted By	Friday, April 21, 2017
Proposal Due Date	Friday, May 12, 2017, 5:00 p.m. EST
Award Announcement	June 2017
Tentative Contract Start Date	July 2017

Intent of this Request for Proposals

ILS announces the availability of funds and solicits proposals for the establishment of a model Parental Representation Office in a county outside of New York City to provide legal representation to parents¹ in child protective proceedings under New York Family Court Act Article 10 and termination of parental rights proceedings under Family Court Act Article 6.

¹ For ease of reference, in this RFP the term "parent" refers to a biological parent or other "legally responsible" person who is eligible for assigned counsel under New York Family Court Act § 262.

The intent of this Request for Proposals ("RFP") is to improve the quality of indigent legal services by establishing, in a county outside of New York City, a demonstration project (the "Model Office") which will implement standards and best practices in child protective and termination of parental rights cases ("state intervention cases") as embodied in ILS' *Standards for Parental Representation in State Intervention Matters*.²

In New York, the right to effective assistance of counsel of indigent parents in state intervention cases is constitutionally and statutorily mandated. *Matter of Ella B.*, 30 N.Y.2d 352 (1972); Family Ct. Act §§ 261, 262; Surrogate's Court Procedure Act § 407. In state intervention cases, consistent with the goals of the child welfare system, effective representation of parents requires an approach designed to prevent unnecessary disruption of the parent-child relationship and to promote the safety, well-being, and stability of children within their families.

Accordingly, this demonstration project seeks to implement a client-centered, holistic, and multidisciplinary model of representation that addresses both the legal and social services issues inherent in state intervention cases. Moreover, as important substantive and procedural due process issues are implicated from the earliest point of government intervention into a family's life, Model Office staff will provide advice and counsel to parents during investigations by Child Protective Services ("CPS") even before a court proceeding is initiated. The *ILS Parental Representation Standards* provide guidance and a comprehensive roadmap for implementing these core principles of meaningful and effective parental representation.

Exemplified by the nationally acclaimed, New York City-based Center for Family Representation, Inc. ("CFR"),³ the multidisciplinary approach embodied in this Request for Proposals is recognized by the Children's Bureau of the United States Health and Human Services Department and the American Bar Association as the premier method for providing representation to parents in state intervention cases.⁴

² *Standards for Parental Representation in State Intervention Matters*, New York State Office of Indigent Legal Services (effective December 2, 2015) (hereinafter *ILS Parental Representation Standards*), accessible at <https://www.ils.ny.gov/content/parent-representation-standards>.

³ See, e.g., Elizabeth Thornton, *Court-Based Child Welfare Reforms: Improved Child/Family Outcomes and Potential Cost Savings*, Center for Children and the Law (2012); and Elizabeth Thornton & Betsy Gwin, *High-Quality Legal Representation for Parents in Child Welfare Cases Results in Improved Outcomes for Families and Potential Cost-Savings*, *Family Law Quarterly*, 46(1), 137-152 (2012). While in 2014 the average length of stay for a child in foster care in New York was twenty-nine months, for CFR clients' children, the average length of stay in foster care was less than 5 months. In about half of their cases, CFR succeeded in keeping children out of foster care entirely. As of 2014, CFR estimated that it had saved \$130 million in public dollars. 2014 Report to the Community, The Center for Family Representation, <https://www.cfmv.org/wp-content/uploads/2012/12/Annual-Report-2014-FINAL.pdf>.

⁴ The federal government's indicators of whether parties are receiving "quality, effective representation" includes whether parents' attorneys have access to "other multi-disciplinary professionals as partners, team members or employees such as social workers, investigators, Court Appointed Special Advocates (CASAs), etc." *Indicators of Quality Legal Representation*, Attachment B, Instructions for State Courts Applying for Court Improvement Program (CIP) Funds for Fiscal Years (FYs) 2012-2016. Program Instruction ACYF-CB-PI-12-02 (Children's Bureau, U.S. Department of Health and Human Services, Administration for Children and Families (January 11, 2012), <http://www.acf.hhs.gov/sites/default/files/cb/pi1202.pdf>). See also American Bar Association *Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases*, Standard 26 ("Engage in case planning and advocate for appropriate social services using a multidisciplinary approach to representation when available."), http://www.americanbar.org/content/dam/aba/publications/center_on_children_and_the_law/parentrepresentation/A

As such, this demonstration project is expected to improve the overall quality of state intervention representation in the grantee county and allow for assessment of the potential for successful implementation of this model in other New York counties.

Section I: Background

A parent's interest in his or her child's care and custody is one of the oldest and most fundamental liberty interests recognized by law.⁵ Depriving a parent of the right to raise one's child is "often . . . the more grievous" compared to a prison sentence.⁶ The United States Supreme Court has emphasized that parents' fundamental liberty interest in associating with and raising their children "does not evaporate simply because they have not been model parents or have lost temporary custody of their child to the State. Even when blood relationships are strained, parents retain a vital interest in preventing the irretrievable destruction of their family life."⁷ Moreover, a child has her own legal interest and right to be raised within her family.⁸ Indeed, while the objective of CPS intervention is the protection of children thought to be abused or neglected, social science evidence suggests that children are better off with their families even in "marginal" cases where CPS investigators disagree about whether a child should be taken into state custody.⁹

Recognizing the need for a check on government interference with the fundamental liberty interests of family integrity and family autonomy, in 1972 the New York State Court of Appeals held that indigent parents in state intervention cases have a constitutional right to publicly-funded legal representation.¹⁰ Citing the "gross inherent imbalance of experience and expertise" between the State and an unrepresented parent, the *Ella B.* Court held that principles of fundamental fairness, due process, and equal protection require that an indigent parent be provided with a publicly-funded lawyer when the State seeks to take that parent's child into

[BA-Parent-Attorney-Standards.authcheckdam.pdf](#), and *ABA National Project to Improve Parental Representation: An Investment That Makes Sense*, http://www.americanbar.org/content/dam/aba/administrative/child_law/ParentRep/At-a-glance%20final.authcheckdam.pdf.

⁵ *Troxel v. Granville*, 530 U.S. 57, 65 (2000).

⁶ *Lassister v. Department of Social Services*, 452 U.S. 18, 59 (1981) (Stevens, J., dissenting).

⁷ *Santosky v. Kramer*, 455 U.S. 745, 753 (1982).

⁸ Assessing the private interests at stake in the fact-finding stage of a child protective case, the *Santosky* Court observed that "the State cannot presume that a child and his parents are adversaries," and that, until the State proves parental unfitness, "the child and his parents share a vital interest in preventing erroneous termination of their natural relationship." *Id.* at 760.

⁹ Joseph J. Doyle, Jr., *Child Protection and Child Outcomes: Measuring the Effect of Foster Care*, 97 *Amer. Econ. Rev.* 1583, 1584 (2007) (suggesting that "significant benefits from foster care placement . . . appear unlikely for children at the margin of foster care."), accessible at http://www.mit.edu/~jidoyle/fostercare_aer.pdf; see also Joseph J. Doyle, Jr., *Child Protection and Adult Crime: Using Investigator Assessment to Estimate Causal Effects of Foster Care*, 116(4), *J. of Pol. Econ.* 746 (2008), accessible at http://www.mit.edu/~jidoyle/doyle_jpe_aug08.pdf.

¹⁰ *Matter of Ella B.*, 30 N.Y.2d 352 (1972).

custody. In reaching this conclusion, the Court stressed that "[a] parent's concern for the liberty of the child, as well as for his care and control, involves too fundamental an interest and right to be relinquished to the State without the opportunity for a hearing, with assigned counsel if the parent lacks the means to retain a lawyer."¹¹

In 1975, the New York State legislature codified the *Ella B.* decision in §§ 261 and 262 of the New York Family Court Act. Emphasizing the "fundamental interests and rights" implicated in various types of family law cases, the Legislature declared in Family Court Act § 261 that legal counsel is "indispensable" in ensuring the "practical realization of due process of law" and in assisting the court in making "reasoned determinations of fact and proper orders of disposition." The courts have made it clear that the constitutional standard of effective assistance of counsel under the New York State Constitution applies in state intervention cases.¹²

For CPS-involved parents, effective assistance of counsel can mean the difference between the termination of parental rights, which some have called "the family law equivalent of the death penalty in a criminal case,"¹³ and family preservation. Given the complex dynamic of legal and social work issues involved, the American Bar Association and the federal Administration for Children and Families recognizes the multidisciplinary approach as a key indicator of effective parental representation.¹⁴ The use of this approach is increasingly prevalent,¹⁵ and is a defining element of this RFP.

¹¹ *Id.* at 356-357 (cites omitted).

¹² *Brown v. Gandy*, 3 N.Y.S.3d 486 (4th Dept. 2015) ("... because the potential consequences are so drastic, the Family Court Act affords protections equivalent to the constitutional standard of effective assistance of counsel afforded defendants in criminal proceedings;" previous decisions requiring a showing of "actual prejudice to prevail on a claim of ineffective assistance of counsel under the New York Constitution" are no longer to be followed); *see also Matter of Jaikob O.*, 931 N.Y.S.2d 156 (3rd Dept. 2011); *Matter of Eileen R.*, 912 N.Y.S.2d 350 (3rd Dep't 2010); *Matter of Alfred C.*, 655 N.Y.S.2d 589 (2^d Dept. 1997).

¹³ *E.g.*, Stephanie N. Gwillim, *The Death Penalty of Civil Cases: The Need for Individualized Assessment and Judicial Education When Termination Parental Rights of Mentally Ill Individuals*, 29 St. Louis U. Pub. L. Rev. 341 (2009) (citing *In re K.A.W.*, 133 S.W.3d 1, 12 (Sup. Ct., Mo. 2004); *see also In re Smith*, 77 Ohio App.3d 1, 16 (1991) ("A termination of parental rights is the family law equivalent of the death penalty in a criminal case. The parties to such an action must be afforded every procedural and substantive protection the law allows."))

¹⁴ *See, e.g.*, *High Quality Legal Representation for All Parties in Child Welfare Proceedings*, pp. 10-11, United States Health and Human Services, Administration for Children and Families, Children's Bureau (Information Memorandum ACYF-CB-IM-17-02, January 17, 2017) (hereinafter *High Quality Legal Representation*); *Indicators of Success for Parent Representation*, American Bar Association, Center on Children and the Law (2015), accessible at http://www.americanbar.org/content/dam/aba/administrative/child_law/ParentRep/Indicators-of-Success.authcheckdam.pdf; *Instructions for State Courts Applying for Court Improvement Program (CIP) Funds, Fiscal Years 2012-2016*, at 7 and Attachment B, *Indicators of Quality Legal Representation*, U.S. Dep't of Health and Human Services, Administration for Children and Families (2012); *see also ILS Parental Representation Standards*, *supra* note 2, Standard G (Model of Representation - Multidisciplinary Practice).

¹⁵ Examples include the Vermont Parent Representation Center, Inc. (<http://vtprc.org/>); the Detroit Center for Family Advocacy (<https://www.law.umich.edu/centersandprograms/pcl/cfa/Pages/default.aspx>); the Family Defense Center (Chicago) (<http://www.familydefensecenter.net/>); the New Jersey Office of the Public Defender, Office of Parental Representation (<http://www.state.nj.us/defender/structure/opr/>); and the Washington State Office of Public Defense, Parent Representation Program (<http://www.opd.wa.gov/index.php/program/parents-representation>).

In New York, integrated legal and social work advocacy has long been recognized as necessary for effective parental representation. For example, in a 2000 report, *Justice Denied: The Crisis in Legal Representation of Birth Parents in Child Protective Proceedings*, the New York City Public Advocate argued that New York State's "statutory and constitutional duties of providing representation to indigent adults involved in Family Court matters" would be best met by establishing an organization which would combine "accountability, specialization, social work support services and institutional resources."¹⁶ The report concluded that "[i]f parents have access to adequate representation, everyone will gain: money will be saved, Family Court will function more effectively, and children will receive the stability and permanence to which they are entitled."¹⁷ The Committee envisioned a multidisciplinary model, with "[s]taff attorneys who work in conjunction with parent advocates, paralegals or social workers who can educate and assist the parents."¹⁸ In 2001 the First Judicial Department's Committee on Representation of the Poor echoed the *Justice Denied* report, observing that "the need for interdisciplinary services involving at least a social worker in addition to an attorney suggests that an institutional provider to represent parents in Family Court should be established."¹⁹

Observers have also noted the need for comprehensive, holistic advocacy for parents. As the First Judicial Department Committee observed, "the need for more holistic representation is acute in the area of family law" because child welfare-involved families "often have other needs that affect their ability to resolve the Family Court proceedings successfully."²⁰ The Committee proposed an institutional organization that would engage in legal and advocacy strategies beyond defending the allegations made against the parent. "To be truly effective, the institutional provider for parents should have the staffing capability to reach out to community services, mental health facilities, parent education, and drug counseling programs. It should also have access to other attorneys who could advise or represent parents in housing, public assistance, disability, and domestic violence problems."²¹

In the wake of similar calls for an institutional, multidisciplinary, holistic approach to parental defense by legislators, court-appointed task forces, bar association committees, parents' attorneys

¹⁶ Mark Green & Child Planning & Advocacy Now (C-PLAN), *Justice Denied: The Crisis in Legal Representation of Birth Parents in Child Protective Proceedings*, at 44-45 (May 2000) (hereinafter *Justice Denied*).

¹⁷ *Id.* at 46.

¹⁸ *Id.* at 45.

¹⁹ First Judicial Department Committee on Representation of the Poor, *Crisis in the Legal Representation of the Poor: Recommendations for a Revised Plan to Implement Mandated Governmentally Funded Legal Representation of Persons Who Cannot Afford Counsel*, at 12 (March 2001) (hereinafter *Crisis in Legal Representation of the Poor*), accessible at http://www.courts.state.ny.us/press/old_keep/1AD-rep-poor.shtml.

²⁰ *Id.* at 14.; see also Roger L. Green and William L. Parment, *Legislative Report: Losing Our Children: An Examination of New York's Foster Care System*, New York State Assembly, Committee on Children and Families and Committee on Oversight, Analysis and Investigation (July 1999) (hereinafter *Losing Our Children*) (supporting funding for programs to provide "comprehensive representation" for parents including "legal assistance to help families with their housing, public assistance and domestic relations problems to alleviate any conditions which may have caused abuse or neglect.")

²¹ *Crisis in Legal Representation of the Poor*, *supra* note 19, at p. 14.

and others,²² beginning in 2007 the New York City Mayor's Office of Criminal Justice entered into multi-year contracts with several organizations.²³ Through these contracts, New York City has established a parental defense system that requires the use of "a multidisciplinary service model, including social workers, paralegals, investigators, experts and parent advocates."²⁴ Currently, the Center for Family Representation, Inc., Brooklyn Defender Services, the Bronx Defenders, and the Neighborhood Defender Service of Harlem are the primary providers for the majority of state intervention cases in New York City.²⁵

Consistent with its statutory mandate to improve the quality of indigent legal services provided throughout the state, the Office of Indigent Legal Services seeks to refine and evaluate the efficacy of this practice model outside of New York City. Accordingly, this RFP has at its core a multidisciplinary and holistic approach to parental representation. As described below, this approach is complemented by an emphasis on early representation, starting with representation during CPS investigations, and caseload caps to ensure that Model Office staff have sufficient time to provide high quality representation in accordance with prevailing standards and best practices.

A. Multidisciplinary, Holistic Representation

Multidisciplinary representation: Child welfare cases are complex, involving multiple and intertwined legal and social issues. The stress experienced by parents and families entangled in the child welfare and family court systems is exacerbated by the highly compressed, federally

²² See, e.g., *Families in Limbo: Crisis in Family Court, Recommendations & Solutions*, Child Welfare Watch (Winter 1999); Sherie Bonstelle and Christine Schessler, *Adjourning Justice: New York State's Failure to Support Assigned Counsel Violates the Rights of Families in Child Abuse and Neglect Proceedings*, 28 *Fordham Urb. L. J.* 1151 (2001) (hereinafter *Adjourning Justice*); Special Child Welfare Advisory Panel, *Advisory Report on Front Line and Supervisory Practice: Special Report On Family Court*, Annie E. Casey Foundation (2000), accessible at <http://files.eric.ed.gov/fulltext/ED439189.pdf> (hereinafter *Special Report on Family Court*); Julia Vitullo-Martin and Brian Maxey, *New York Family Court: Court User Perspectives*, Vera Institute of Justice (January 2000), accessible at <http://www.vera.org/sites/default/files/resources/downloads/nvfamilycourt.pdf>; Beth Harrow and Sue Jacobs, *Report of the Parent Representation Working Group*, 70 *Fordham L. Rev.* 399 (2001); see also Ann Moynihan, et. al, *Foreword, Fordham Multidisciplinary Conference - Achieving Justice: Parents and the Child Welfare System*, 70 *Fordham L. Rev.* 287, 309-313 (2001).

²³ Heather Appel, *New Influx of Lawyers Coming to Family Court*, City Limits, April 16, 2007, accessible at <http://citylimits.org/2007/04/16/new-influx-of-lawyerscoming-to-family-court/>; Testimony of John Feinblatt, New York City Criminal Justice Coordinator, before the City Council, City of New York, Committee on General Welfare (Hearing Transcript, January 11, 2007, pp. 13-14) (noting issuance of RFP by NYC and awards to legal services providers of contracts that require both legal and social services for parents), accessible at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=446645&GUID=58889C26-F4EB-41FD-9C85-BBB1F960475E&Options=&Search=>.

²⁴ The City of New York Criminal Justice Coordinator's Office, *Request for Proposals for Indigent Family Court Legal Services for Respondents in Article 10 Cases* (2007) (on file with ILS).

²⁵ See Report on the Fiscal Year 2015 Executive Budget for the Mavor's Office of Criminal Justice. The Council of the City of New York (May 20, 2014), accessible at <http://council.nyc.gov/downloads/pdf/budget/2015/15/eb/cjc.pdf>. Conflict providers of state intervention representation in New York City are the Bronx Defenders, New York County Defender Services, Brooklyn Defender Services, and Queens Law Associates. *Id.*

mandated deadline by which a child welfare agency must initiate a termination of parental rights proceeding.²⁶ Such multifaceted pressures demand a multifaceted approach.

This RFP therefore contemplates a multidisciplinary team approach in which a lawyer and social work staff work (social worker, parent advocate) helps the parent to navigate the child welfare and court systems.²⁷ The lawyer will provide expert legal advocacy, both in and out of court, and will guide the parent through the complex laws and procedures governing the legal case. As described in the next section (Holistic Representation), the lawyer will also provide, or collaborate with other entities to secure, representation for the parent on related issues necessary to prevent removal of a child from the parent or to allow the safe return of a child who has been removed.

The social worker will assess the strengths and needs of the parent and the family, provide case and crisis management, and work to access appropriate services. The parent advocate – a parent who has successfully navigated the child welfare system – will be available to provide the parent with peer-to-peer emotional support, accompany the parent to meetings, assist with challenging interactions as needed, and encourage the parent to stay motivated and engaged with services.

Holistic representation: Allegations of child maltreatment are commonly precipitated by or intertwined with family circumstances and challenges related to other legal issues, including, for example, housing, paternity, child support, domestic violence, and divorce. Criminal justice involvement, poverty-related issues such as lack of access to childcare and medical services, and mental health or substance abuse issues may impact a parent’s ability to safely keep or regain custody of a child. Likewise, the autonomy and integrity of many families involved in the child welfare system are affected by immigration issues.²⁸

Thus, in addition to providing direct legal services in the state intervention case, the Model Office will be expected to provide, or collaborate with other entities to secure, legal

²⁶ With certain exceptions, child welfare agencies must initiate a termination of parental rights proceeding once a child has been in foster care for 15 of the previous 22 months. N.Y. Soc. Services Law §384-B(1)(i) (enacting provisions of the federal Adoption and Safe Families Act of 1997, 42 U.S.C. § 675(4)(E)).

²⁷ See *ILS Parental Representation Standards*, *supra* note 2, Standard G (Model of Representation - Multidisciplinary Practice); see generally Martin Guggenheim and Susan Jacobs, *A New National Movement in Parent Representation*, Clearinghouse Review, Journal of Poverty Law and Policy, Vol. 47, pp. 36-46 (May-June 2013); University of Michigan Law School, *Detroit Center for Family Advocacy Pilot Evaluation Report, 7/2009-6/2012*, p. 2 (February 2013); see also Vermont Parent Representation Center, Inc., *Program Model*, <http://vtprc.org/program-model/>; Diane Boyd Rauber, *From the Courthouse to the Statehouse: Parents as Partners in Child Welfare*, Child Law Practice, Vol. 28, No. 10 (American Bar Association, December 2009) (describing parent advocate programs operating around the country), accessible at http://www.hunter.cuny.edu/socwork/nrcfcpp/info_services/parentpartner1.pdf; Diane Boyd Rauber, *Working With Parent Partners to Achieve Better Case Outcomes for Families*, Child Law Practice, Vol. 28, no. 11 (American Bar Association, January 2010) (providing suggestions to parents’ attorneys for working with parent advocates and parents), accessible at http://www.hunter.cuny.edu/socwork/nrcfcpp/info_services/parentpartner2.pdf.

²⁸ E.g., U.S. Immigration and Customs Enforcement (ICE) *Facilitating Parental Interests in the Course of Civil Immigration Enforcement Activities* ("Parental Interests Directive") (outlining elements related to ICE's field offices' handling of cases involving primary caretakers, parents or legal guardians of minor children, with particular focus on non-citizens involved in family court or child welfare proceedings), accessible at <http://www.ice.gov/parental-interest>; see also *Immigration and Child Welfare*, Child Welfare Information Gateway, accessible at <https://www.childwelfare.gov/pubPDFs/immigration.pdf>.

representation on issues that are integral to preventing removal of a child from the family or reunifying the child with the family after removal.²⁹

Finally, an essential component of holistic representation is a comprehensive understanding of community needs, strengths, and challenges. This RFP therefore contemplates that Model Office staff will engage in community education, outreach, and collaboration with individuals and organizations to identify and address systemic issues affecting families involved with or at risk of such involvement.

B. Timely Involvement of Counsel in CPS Investigations and Court Proceedings

The child welfare system's goal of promoting the safety, stability and well-being of children within their families is best served when parents, as well as children and the child welfare agency, are represented from the earliest stages of the government's intervention into a family's life. Federal guidelines advise that all parties should have access to legal counsel "very early in the State intervention process, but no later than the point at which legal proceedings are initiated."³⁰ Early access to legal counsel by all parties can expedite the provision of appropriate services to families, prevent unnecessary separation of children from their families, promote timely and appropriate permanency decisions for children, and conserve agency and judicial resources.³¹

In reality, parents are typically at a disadvantage with respect to early access to counsel. As a matter of course, the child welfare agency has legal representation from the inception of an investigation into the family. Moreover, New York law provides for appointment of an attorney for a child involved in a child protective proceeding at the earliest occurrence of: the court receiving notice of an extra-judicial emergency removal; the filing of an application for a pre-petition order of removal; or the filing of a petition alleging abuse or neglect.³²

In contrast, the law requires that a parent be advised of the right to a court-appointed lawyer, if financially eligible, only when the parent "first appears in court."³³ As a result, many parents may be without the benefit of legal advice and counsel until days or even weeks after having their children taken into state custody.³⁴ As stressed many years ago in a highly influential New

²⁹ See *ILS Parental Representation Standards*, *supra* note 2, Standard H (Breadth of Representation).

³⁰ Donald N. Duquette and Mark Hardin, *Adoption 2002: The President's Initiative on Adoption and Foster Care: Guidelines for Public Policy and State Legislation Governing Permanence for Children*, p. VII-1 (U.S. Dep't of Health and Human Services, Administration for Children and Families, Children's Bureau (June, 1999), accessible at <http://archive.org/details/guidelinesforpub00duqu> ("ACF Guidelines").

³¹ United States Administration for Children and Families, *High Quality Legal Representation*, *supra* note 14, at pp. 6-7.

³² NY Family Court Act § 1016.

³³ Family Ct. Act § 262. "Parents must appear at court in order to have an attorney assigned. (Thus, for example, a parent who does not appear the day after a child is removed, and therefore is not provided with an attorney, is unlikely to learn that she has a right to demand a hearing to review the removal.)" *Special Report on Family Court*, *supra* note 22, at 46.

York State Senate committee report, “a number of highly significant events occur prior to the initial appearance and prior to the initial appointment of representation for the respondent. All of these events occur on an ex parte basis and many of the events are of a magnitude to shake the family structure of the respondent.”³⁵ Given the significant events that precede a client’s first appearance in court, if a lawyer does not have the opportunity to meet with the parent “well before the initial hearing . . . the representation will likely be ineffective.”³⁶

As detailed below, this RFP therefore contemplates that Model Office staff will represent clients from the earliest point possible and continuously throughout the duration of the parent’s case.

Pre-petition, CPS Investigation Representation. Legal counsel for parents during a CPS investigation can guard against unwarranted separation of children from their families.³⁷ Child welfare agencies are prohibited from forcibly taking children into custody without a court order unless there is an "imminent danger to the child’s life or health."³⁸ Unfortunately, experience has shown that agencies too often wield their emergency removal power in situations where such drastic state action is unnecessary,³⁹ and without first attempting to address the issues that brought the family to the agency's attention.⁴⁰

³⁴ Jules Kerness and Constance R. Warden, *Child Protection and the Family Court: A Study of the Processes, Procedures, and Outcomes Under Article Ten of the New York Family Court Act*, pp. 131-132, New York State Senate Standing Committee on Child Care, (Sen. Mary Goodhue, Chair) (National Center on Child Abuse and Neglect, December 1989) (hereinafter the *1989 Article Ten Study*), accessible at <https://www.ncjrs.gov/pdffiles1/Digitization/126665NCJRS.pdf>.

³⁵ *1989 Article Ten Study*, pp. 131-132 (emphasis added). This Study led to the enactment in the 1990 legislative session of a consolidated 17 bill package addressing child abuse and neglect proceedings in New York State family courts. These new laws "were the result of the committee's federally funded 1988-89 study of 500 Family Court case histories . . . Important elements of the package include authority for comprehensive law guardian representation of abuse children, thorough monitoring of implementation of Family Court orders, and clear standards for supervision of abused children and their families." 1990 Annual Report of the New York State Senate Standing Committee on Child Care, p. 2, accessible at <https://www.ncjrs.gov/pdffiles1/Digitization/129495NCJRS.pdf>. "The conclusions of the study were dramatic and sobering: children and their parents often are denied important due process protections in child abuse proceedings; child protective agencies charged with assisting and monitoring the conduct of abusive families cannot fully perform their duties, and, most important, family court orders in abuse and neglect proceedings are rarely monitored by the court . . . Implementation of the new laws will mean that courts as well as the Child Protective systems will have an enhanced capacity to ensure that children are protected and that families receive needed services." *Id.* at 6-7.

³⁶ Judge Leonard Edwards (Superior Ct., California, ret.), *Representation of Parents and Children in Abuse and Neglect Cases: The Importance of Early Appointment*, *Juvenile and Family Court Journal* 63, no. 2 (Spring 2012) at http://www.maine-court-improvement.org/fileLibrary/file_52.pdf; see also Mark Hardin & Susan Koenig, *Early Appointment of Counsel for Parents*, in Court Performance Measures in Child Abuse and Neglect Cases: Technical Guide, U.S. Department of Justice, Office of Justice Programs (2nd Printing, 2009), pp. 101-109 (hereafter *Early Appointment*).

³⁷ See *ACF Guidelines*, *supra* note 30, at VII-8 (“A danger exists in child protection cases that personal rights of parents and children will be infringed in the well-intentioned zeal to help children and parents. Even before an attorney is appointed to represent the parents, government intervention in the family may have been initiated that has not been reviewed by any court or magistrate. The goals of the child protection system do not alter the need to recognize and respect the personal integrity and autonomy of parents. Protective State intentions do not justify any relaxation of legal safeguards or procedural protections for parents or children.”)

³⁸ Family Ct. Act § 1024(a).

Members of the New York State judiciary and the bar have recognized the value of providing counsel to indigent persons during government investigations.⁴¹ Evidence shows that access to a lawyer by parents during CPS investigations can prevent the unnecessary separation of children from their families, thereby saving significant amounts of taxpayer money that would otherwise be spent on the most expensive child welfare intervention - foster care.⁴² Thus, in accordance with prevailing standards and best practices, the Model Office will be expected to provide representation to parents during CPS investigations, before court involvement.⁴³ Potential clients may be identified through means such as walk-ins, an in-house Helpline, referrals from criminal defense or civil legal services providers, community-based organizations or service providers, arrangements with the Family Court and/or the child welfare agency, or other means of connecting with parents at risk of CPS intervention.⁴⁴

Any number of circumstances or conditions may affect a parent's ability to maintain a child safely in the home or within the extended family unit (e.g., substance use or abuse, eviction, inadequate or unsafe housing conditions, domestic violence, mental health issues, etc.),⁴⁵ and

³⁹ See, e.g., Vivek Sankaran & Christopher Church, *Easy Come, Easy Go: The Plight of Children Who Spend Less Than Thirty Days in Foster Care*, 19 U. Pa. L. J. & Soc. Change 205 (2016); *An Examination of the Child and Family Services Agency's Performance When it Removes Children from and Quickly Returns them to their Families: Findings and Recommendations from the Citizens Review Panel*, The District of Columbia Citizen Review Panel, September 2011, accessible at http://www.dc-crp.org/Citizen_Review_Panel_CFSA_Quick_Exits_Study.pdf; Kerness & Warden, *1989 Article Ten Study*, *supra* note 33 at 58-80, 88-93; Green & C-Plan, *Justice Denied*, *supra* note 16, at 4.

⁴⁰ See, e.g., Special Child Welfare Advisory Panel, *Special Report on Family Court*, *supra* note 22, at 47.

⁴¹ See, e.g., First Judicial Department Committee, *Crisis in Legal Representation of the Poor*, *supra* note 19, at 14 ("While there may be difficult administrative issues for compensating assigned counsel for pre-arrest representation, an effort should be made, perhaps through a resource center or a referral mechanism, to make pre-arrest representation generally available to indigent persons."); Committee to Ensure the Quality of Mandated Representation, *2015 Revised Standards for Providing Mandated Representation*, New York State Bar Association, Standard B ("Effective representation should be available for every eligible person whenever counsel is requested during government investigation or when the individual is in custody. Provision of counsel shall not be delayed while a person's eligibility for mandated representation is being determined or verified.").

⁴² See, e.g., Vivek Sankaren, *Using Preventive Legal Advocacy to Keep Children from Entering Foster Care*, 40 Wm. Mitchell L. Rev. 1036 (2014), accessible at <http://repository.law.umich.edu/cgi/viewcontent.cgi?article=1946&context=articles>.

⁴³ See *ILS Parental Representation Standards*, *supra* note 2, Standard I, Representation prior to court intervention; see also American Bar Association, *Standards of Practice for Attorneys Representing Parents in Child Abuse and Neglect Cases*, Standard 4 (2006) (describing goals of pre-petition representation), accessible at http://www.americanbar.org/content/dam/aba/administrative/child_law/ParentStds.authcheckdam.pdf.

⁴⁴ *Indicators of Success for Parent Representation*, *supra* note 14, at 9-10 ("In some jurisdictions attorney referral might be based on cases deemed "high risk" but where safety is currently controlled. This may be based on agency safety/risk assessment tools. Cases may also be assigned to attorneys when particular risk categories are established where a parents' attorney may be helpful in preventing removal by dealing with legal issues that might impact the parent's ability to keep children at home, for example, legal assistance for special education, housing, or relative custody.")

some populations may be particularly vulnerable to CPS intervention (for example, mothers of newborns who test positive for drugs).⁴⁶ In all cases, the goal of pre-petition investigation representation by the Model Office will be to prevent unnecessary removals and to assist the parent with obtaining necessary and appropriate services that will keep the family together safely.⁴⁷ Model Office staff will advise and counsel parents about the exercise of their rights during a CPS investigation, and provide, or collaborate with other entities to secure, legal representation on matters affecting the child's safety and the family's stability. The staff may provide other types of assistance, as appropriate, including: preparing the parent for and/or accompanying the parent at CPS interviews and meetings; advising and counseling the parent regarding voluntary placement of the child with relatives or other suitable caretakers; advocating for reasonable and realistic service plans that address the family's needs; and brainstorming creative ways to address the allegations against the parent.⁴⁸

Timely Entry into Court Proceedings: Access by an accused parent to legal representation in advance of the first court appearance is crucial to effective representation.⁴⁹ At the hearing after a child has been involuntarily removed from his or her family, a judge must decide the critical question of whether, based on evidence presented, there is an "imminent risk" to a child's life or health to justify the removal. This hearing is a "critical stage" of state intervention litigation.⁵⁰ Model Office staff will therefore be expected to meet with clients sufficiently in advance of and to actively participate in such hearings as necessary to protect the parent's interests and advance the parent's goals.⁵¹

To that end, the Model Office should seek to begin representation of eligible persons as soon as possible, even before a judge has issued an order of appointment. In that regard, although Family Court Act § 262 states that judges must advise parents of the right to counsel at the parent's first court appearance, a person's right to counsel is not contingent upon a judge's order of

⁴⁵ See, e.g., Robbin C. Pott, *The Detroit Center for Family Advocacy: A Call for Replicating an Effective Model*, American Bar Association (January 14, 2014), accessible at <http://apps.americanbar.org/litigation/committees/childrights/content/articles/winter2014-0114-detroit-cfa-replicating-effective-model.html> and the Family Preservation Project of the Neighborhood Legal Services Program, Washington, D.C. (April 10, 2014), <http://www.nlsp.org/resource-center/news/family-preservation-project>.

⁴⁶ See, e.g., Vermont Parent Representation Center, <http://vtprc.org/>; The Bronx Defenders, Family Defense Practice, <http://www.bronxdefenders.org/our-work/family-defense-practice/>;

⁴⁷ See *ILS Parental Representation Standards*, *supra* note 2, Standard I (Representation prior to court intervention).

⁴⁸ See Trine Bech, Mark Briggs, Elizabeth Bruzzo, Tracy Green, and Christie Marra, *The Importance of Early Attorney Involvement in Child Welfare Cases: Representation of Parents in Pre-Petition Proceedings*, at 4 (presented at the American Bar Association Second National Parents' Attorney Conference, July 2011) (accessible at http://www.americanbar.org/groups/child_law/what_we_do/projects/parentrepresentation/conference_materials.html), (hereafter *Early Attorney Involvement*); see also Elizabeth Fassler and Wanjiro Gethaiga, *Representing Parents During Child Welfare Investigations: Precourt Advocacy Strategies*, 30 *Child Law Practice* 2, American Bar Association (April 2011) (accessible at <https://www.cfrny.org/news-blog/original-publications/>).

⁴⁹ United States Administration for Children and Families, *High Quality Legal Representation*, *supra* note 14, at pp. 6-7.

⁵⁰ *ACF Guidelines*, *supra* note 30, at 101.

⁵¹ *ILS Parental Representation Standards*, *supra* note 2, Standard K (Preliminary Court Proceedings).

appointment,⁵² and judges are not prohibited from appointing counsel before a parent appears in court, or even before eligibility is determined.⁵³

To ensure that parents' rights and interests are protected, and that the attorney has the best opportunity to provide meaningful and effective assistance of counsel, this RFP contemplates that the Model Office will establish mechanisms to ensure that parents have access to counsel from the earliest stages of a state intervention case, including during a CPS investigation, upon notice to the Family Court of an imminent or actual extra-judicial removal of a child by the agency, upon the filing of an application by the agency requesting an order of removal, and, at the very latest, upon the filing with the court of a petition alleging abuse or neglect.

C. Reasonable Attorney Caseloads

State intervention cases are complicated and labor intensive. They generally require more court appearances and last longer than other types of cases. Effective parental representation demands active in-court and out-of-court advocacy, and regular communication with the client, family members, and other professionals. Interlocutory or interim appeals may be necessary in some cases. Other proceedings such as custody, guardianship, family offense or paternity proceedings may be initiated over the course of the case. Moreover, social services needs and related legal issues often must be addressed.

Numerous state and national entities stress the fundamental premise that effective representation is impossible without manageable caseloads.⁵⁴ Given the unique complexities involved in state intervention cases, caseload limits are essential to permit attorneys to comply with their ethical responsibilities. This RFP therefore contemplates an office average of no more than 50 clients

⁵² *Id.*, Standard 5 (requiring that attorneys and programs provide representation “for every eligible person at the earliest possible time and begin advocating for every client without delay, including while client eligibility is being determined or verified.”); *see also* New York State Bar Association Revised Standards for Providing Mandated Representation (2015), Standard B (Early Entry of Representation) (“Systematic procedures shall be implemented to ensure that prompt mandated representation is available to all eligible persons, particularly those held in detention facilities and where a child has been removed by a governmental agency from the person’s home.”). *See also* *People v. Rankin*, 998 N.Y.S.2d 573, 802 (County Court, Monroe County, 2014) (“[New York State Bar Association Revised Standards for Providing Mandated Representation], applicable to all attorneys tasked with representing indigent individuals, demonstrate, objectively, that effective representation for indigent individuals entails representation without delay pending the judge’s eligibility determination . . . there is no scenario under which indigent individuals would not be afforded an impaired quality of representation where the Public Defender’s function as counsel is effectively disabled pending receipt of a judge’s order of appointment.”)

⁵³ *Id.*, Standard I-5 (Assignment as soon as possible); *see also* *ACF Guidelines*, *supra* note 30, at 107-109.

⁵⁴ *See, e.g.*, United States Administration for Children and Families, *High Quality Legal Representation*, *supra* note 14, at pp. 8-10; New York State Office of Indigent Legal Services, *Standards and Criteria for the Provision of Mandated Representation in Cases Involving a Conflict of Interest*, Standard 2 (“Counties must ensure . . . that attorneys and programs providing mandated legal services . . . [m]aintain . . . manageable workloads that ensure the capacity to provide quality representation.”); American Bar Association, [Ten Principles Of a Public Defense Delivery System](#), Principle Five (2002) (“Defense counsel’s workload is controlled to permit the rendering of quality representation.”); and the New York State Bar Association’s Committee to Ensure Quality of Mandated Representation, *Revised Standards for Providing Mandated Representation* (2015), Standard G-1 (“To permit counsel to satisfy their ethical obligations to their clients, every institutional provider of mandated representation and every assigned counsel plan shall establish workload limits for individual attorneys.”) (*Accessible at* <http://www.nysba.org/WorkArea/DownloadAsset.aspx?id=44644>.)

per attorney at any given time.⁵⁵ This range is premised on the understanding that the workload of individual attorneys will vary depending on a number of considerations, including such things as the attorney's experience and expertise; differences among the types, complexity, and duration of cases comprising the workload of the office; the number of active cases in the system; and how far along the provider is in the contract year. Other factors may also affect workloads, such as the level of activity required at different phases of a case; the involvement of multidisciplinary support staff; representation of clients on collateral issues; and engagement in community and professional activities.⁵⁶ As such, the grantee of this RFP will establish protocols to ensure that the average Model Office caseload does not exceed 50 clients per attorney at any given time.

Section II: Project Description – What is this RFP seeking to achieve?

Now is the time for New York State to build on prior successful quality improvement initiatives in New York City and elsewhere as described in this RFP. Implementation of the holistic, multidisciplinary team approach to parental representation in a county outside of New York City will allow for assessment of its potential for replication and sustainability across the state. This RFP therefore solicits proposals for a holistic, multidisciplinary team model that provides parents' access to an attorney during CPS investigations and at the earliest possible point after court intervention, and diligent and zealous in-court and out-of-court advocacy throughout the duration of the case.

The grantee will be expected to consult with the ILS Director of Quality Enhancement for Parental Representation when hiring professional staff, assessing the need for technical assistance, and identifying individuals, organizations, and/or entities with knowledge and experience with holistic and multidisciplinary defense approaches and representation of parents in state intervention and related family, civil, criminal, and administrative matters. Such technical assistance may include, for example, consultations, trainings and/or workshops about pre-petition, CPS investigation representation, parent engagement, community outreach, reunification advocacy, and multidisciplinary team dynamics, as well as administrative, operational, informational systems and/or fiscal management.

- **Proposals must be developed in consultation with representatives of each County Law Article 18-B Family Court mandated representation provider in the applicant's county, including the person with administrative responsibility for overseeing the county's Assigned Counsel Plan.**
- **No county may submit more than one proposal.**
- **Proposals that rely on statutory changes for their implementation will not be funded.**
- **Proposed projects must comply with New York County Law 18-B, Section 722.**

⁵⁵ See *ILS Parental Representation Standards*, *supra* note 2, Standard D (Resources).

⁵⁶ See e.g., Workload of the Attorney for the Child, Rule 127.5, Rules of the Chief Administrative Judge, New York State Unified Court System, Administrative Rules of the Unified Court System & Uniform Rules of the Trial Courts, accessible at <https://www.nycourts.gov/rules/chiefadmin/127.shtml#05>.

Section III: Funding and Contract Period

The total available funds for award is \$2,610,417 (\$870,139 per year for each of three years). Not more than one award will be made by the Office. The selected applicant is **not** guaranteed the entire amount requested.

The grant will be issued for a period of three years. The Office reserves the right to reduce the award amount of any application based on reasons that include but are not limited to: cost effectiveness and reasonableness of proposed budget, demonstrated need, or inconsistent appropriation levels.

Section IV: Who is Eligible to Apply for this Request for Proposals

Only New York State counties, other than counties within New York City, are eligible to apply. Proposals must be submitted by an authorized county official or designated employee. There is no match or any other cost to the counties to participate in this project.

Section V: Instructions for Completing this Request for Proposals

The RFP is available online at www.ils.ny.gov (hit: Ctrl + (right) Click to follow link or copy and paste link into your web browser). Requests for the RFP may be made by e-mail to RFP@ils.ny.gov (hit: Ctrl + (right) Click to follow link in Outlook) or by telephone at (518) 486-9713 or (518) 486-2028.

No responses will be provided to inquiries made by telephone other than to request an RFP.

RFP Questions and Updates

Questions or requests for clarification regarding the RFP should be submitted via email, citing the RFP page and section, by Tuesday, April 11, 2017 to QA@ils.ny.gov (hit: Ctrl + (right) Click to follow link in Outlook).

No responses will be provided to inquiries made by telephone other than to request an RFP.

Questions will not be accepted orally and any question received after the deadline may not be answered.

When corresponding by e-mail, clearly indicate the subject as: “Upstate Model Parental Representation Office RFP”. The name of the party submitting the question will not be posted.

Questions and answers will be posted to the ILS website on the RFP “*Questions Posted By*” date as stated on the cover of this RFP at the following URL webpage address:

<https://www.ils.ny.gov/content/family-court-representation> (hit: Ctrl + (right) Click to follow link or copy and paste link into your web browser).

Instructions for Completing this Request for Proposals

Application Submission (*mail, hand delivery, electronic*)

All submissions must contain the complete application.

All applications must be received by Friday, May 12, 2017 by 5:00 p.m. Eastern Standard Time (EST). Late applications will not be considered.

If submitting an application by mail or hand delivery, this RFP requires the submission of **one (1) original, and four (4) copies (for a total of five).**

Applications must be delivered to:

By mail:

Jennifer Colvin, Grants Manager
Office of Indigent Legal Services
Alfred E. Smith Bldg., 11th Floor
80 South Swan St.
Albany, NY 12210

Hand delivery:

Please call the Office of Indigent Legal Services in advance to arrange for building security clearance (518-486-2028 or 518-486-9713).

Office of Indigent Legal Services
Alfred E. Smith Building (*directly behind the State Capitol Building*)
11th Floor, Suite 1147
80 South Swan Street
Albany, New York 12210

Electronic applications:

Electronic applications will be accepted.

Electronically submitted proposal applications must be submitted to RFP@ils.ny.gov (hit: Ctrl + (right) Click to follow link in Outlook). All required documents or attachments must be included in the electronic submission.

Indicate in the *Subject* area of the electronic transmission that the submission is for the “Upstate Model Parental Representation Office Grant”.

After you submit your application at RFP@ils.ny.gov (hit: Ctrl + (right) Click to follow link in Outlook), you will receive an e-mail confirming receipt of the application. If you do not receive an e-mail confirming receipt, you should contact Jennifer Colvin at (518) 486-9713.

Application Format:

The following components must be included in the application in order for the submission to be complete:

1. Project Summary (not more than two (2) pages in length)
2. Proposal Narrative (not more than twenty-five (25) pages in length)
3. Budget and Justification (See Attachment A of this RFP)

Applications must be received by Friday, May 12, 2017 by 5:00 p.m. Eastern Standard (EST). Late applications will not be considered.

Only complete applications will be reviewed and evaluated.

Section VI: Proposal Application

A. PROJECT SUMMARY (not scored): Provide a summary of your proposal which includes the information listed below. **To ensure uniformity, please limit the length to no more than two (2) double-spaced pages, with margins of 1 inch on all sides, using no less than a 12-point font.**

1. Identification of the requesting county.
2. Fiscal intermediary name and address (identify the department and/or individual responsible for fiscal reporting for this project).
3. Name of contact person, telephone, fax, and email for the lead county representative who will be responsible for oversight of grant administration and its reporting requirements
4. Amount of funding requested.
5. A concise summary describing the proposed project (i.e. goal(s), objectives, overall approach, significant partnerships, anticipated outcomes, etc.).
6. A description of the extent to which the leader of each provider of Family Court representation under Article 18B of the County Law was consulted in developing the proposal, and the methods used for consulting with each (e.g., telephone, email, etc.).
7. A description of the extent to which other stakeholders (e.g., Family Court, local department of social services, civil legal services providers, etc.) were involved in developing the proposal.
8. Describe the nature of any commitment by other agencies, entities, or organizations to cooperate in the implementation of this project. Provide documentation of any such commitment, if available.

B. PROPOSAL NARRATIVE: Provide a clear, concise narrative addressing the following questions. Answer all questions in the order in which they are presented. Please do not submit any information not specifically requested. **Please limit the length to no more than 25 (twenty five) double-spaced pages, with margins of 1 inch on all sides, using no less than a 12-point font.**

I. PLAN OF ACTION (160 points)

Organizational Infrastructure, Personnel and Start-up Activities (28 points)

1. State the name and provide a description of the entity that will be responsible for providing the services described in this RFP (the “proposed provider”). **(2 points)**
2. State the location of the daily operations of the project and how these operations will be supported and supervised. If a site for the project is not yet secured, specifically address how space for the project will be secured prior to the contract start date. **(2 points)**
3. If the proposed provider is an existing entity, explain how the activities and services described in this RFP will fit into the proposed provider's present organizational infrastructure. **(2 points)**

4. Describe: **(a)** the personnel needed to perform the activities and provide the services described in this RFP, **(b)** the minimum qualifications that will be required for each position, and **(c)** the process that will be used to recruit and hire qualified staff. **(10 points)**
5. **(a)** List the essential start-up tasks necessary to implement the proposed provider's plan of action and **(b)** provide a timetable listing the start and end dates for each activity associated with the proposed program start-up. **(10 points)**
6. Identify any resources necessary for start-up that are not currently in place and describe the steps that will be taken to resolve these matters. **(2 points)**

Applicant Capability (15 points)

7. Attach at least **three (3) letters** of support for the proposed provider from several references (e.g., judges, other family court mandated representation providers [i.e., public defender/legal aid society, 18-B attorney], civil legal services attorney, DSS attorney or Attorney for the Child, service providers, community-based organizations, etc.). **Letters must include: (a)** the name of the reference entity, **(b)** a brief statement describing the relationship between the proposed provider and the reference entity, **(c)** the reasons the reference entity supports the proposed provider's involvement in this project, and **(d)** the name, title, and telephone number of a contact person for the reference entity. **(3 points)**
8. Describe how the proposed provider will ensure that all staff members will possess the requisite knowledge, experience and/or training necessary to fulfill the goals and provide the services described in this RFP with respect to: **(a)** New York State family court practice; **(b)** multidisciplinary, holistic, parental defense in state intervention cases; **and (c)** related family, civil, criminal and administrative matters. **(5 points)**
9. Explain how the need for training and technical assistance for staff of the proposed provider will be assessed, and how providers of such training and technical assistance will be identified and secured. **(3 points)**
10. Describe the steps that will be taken by the proposed provider, including any in-house expertise and/or collaboration with other entities, to ensure the availability of legal representation for parents in collateral matters that may affect clients' state intervention case (e.g., criminal defense, housing, education, public benefits, etc.). **(4 points)**

Client Screening and Intake: Pre-petition CPS Investigation Stage (15 points)

11. Describe the anticipated or target client population for **pre-petition CPS investigation representation**, including any specific or unique characteristics or needs of this population, and how these characteristics and/or needs will be addressed by the Model Office. **(3 points)**

12. Describe the criteria and procedures that will be used to select pre-petition CPS investigation clients. **(3 points)**
13. **(a)** Describe how potential pre-petition CPS investigation clients will be identified (e.g., through in-house telephone helpline; walk-ins; informal referrals from criminal defense or civil legal services providers; community-based organizations or service providers; formal or informal arrangements with Family Court and/or the child welfare agency; or other means of connecting with parents who are at risk of or under investigation by CPS), and **(b)** if available, attach any Memoranda of Understanding, letters of commitment or other such documentation from cooperating entities, agencies or organizations regarding their intent to refer potential pre-petition clients to the proposed provider. **(4 points)**
14. Describe the services that will be provided to clients during the CPS investigation stage. **(5 points)**

Client Screening and Intake: Court Intervention Stage (12 points)

15. Describe the anticipated or target client population for **court intervention representation**, including any unique characteristics or needs of this population, and how these characteristics and/or needs will be addressed by the Model Office. **(3 points)**
16. **(a)** Describe the criteria and procedures by which appointment to represent clients at the court intervention stage will be secured, and **(b)** include a description of how the proposed provider will ensure notification by the Family Court of the appointment as early as possible before the initial appearance by a client. **(9 points)**

Collaboration and Community Outreach and Education (10 points)

17. Describe how relationships with agencies and entities involved in various aspects of the child welfare system (such as courts, CPS, law enforcement, social services and foster care providers, department of education, etc.) will be built upon or developed to support the work of the Model Office. **(5 points)**
18. Describe the community outreach and education that will be conducted by the Model Office, and what activities the proposed provider will engage in with organizations and individuals in the community to support families who are involved, or are at risk of involvement, with CPS. **(5 points)**

Model of Representation (35 points)

19. **Multidisciplinary Team Model:** Describe how the multidisciplinary team model described in this RFP will be implemented, including a description of the roles and working relationships among attorney, social work, and parent advocate staff, and how the need for social work and parent advocate staffing will be assessed in each case. **(12 points)**
20. **Holistic Representation:** Describe how the proposed provider will ensure that it has the institutional capacity and flexibility to provide, or collaborate with other entities to secure, representation for clients in collateral legal or administrative matters that may impact the client's state intervention case, such as criminal, housing, health insurance, immigration, child support, public benefits, education, mental health, and central registry expungement. **(10 points)**
21. **Vertical Representation:** Describe how the proposed provider will ensure continuous, vertical representation for clients by the same multidisciplinary team through all phases of each case. **(2 points)**
22. **Appellate Representation:** Describe how the proposed provider will provide or collaborate with other entities to secure appellate representation, including interlocutory appeals, filing notices of appeal, preparing the record on appeal, and briefing and arguing cases. **(3 points)**
23. **Supportive Services:** Describe the criteria and procedures by which the proposed provider will, in any given case, assess the need and provide for supportive services, for example, investigator or expert services. **(2 points)**
24. **Cultural and Language Sensitivity:** Describe how issues of cultural sensitivity and the unique needs of non-English speaking and immigrant clients will be addressed. **(2 points)**
25. **Supervision, Training and Oversight:** Describe the supervision, training and oversight procedures that will be used to ensure that all staff adhere to relevant standards, best practices, and rules of ethics and professional responsibility. **(4 points)**

Caseload and Workload Management (15 points)

26. **(a)** Estimate the number of **pre-petition, CPS investigatory** clients that will be accepted in each grant year, and **(b)** Explain how you arrived at the estimated number of pre-petition, CPS investigatory clients that will be accepted in each grant year. **(3 points)**
27. **(a)** Estimate the number of **court intervention** clients that will be accepted in each grant year, and **(b)** Explain how you arrived at the estimated number of court intervention clients that will be accepted in each grant year. **(3 points)**

28. Describe the manner in which legal and non-legal staff will be deployed to handle the estimated caseload, including, but not limited to: **(a)** How resources will be allocated to assure compliance with the office average of not more than 50 clients per attorney at any given time set out in Section I.C., herein; **(b)** How the ratio of supervising attorneys to attorney staff will be structured to ensure necessary supervision; and **(c)** How the ratio of attorneys to social work, parent advocate, and investigatory/paralegal staff will be structured to ensure high quality representation. **(6 points)**
29. **(a)** Describe how the average office caseload will be monitored on a continuing basis to ensure that it does not exceed the office average of not more than 50 clients per attorney at any given time as set out in Section I.C., herein, and **(b)** Describe the procedures and safeguards that will be established to immediately remedy any noncompliance with those limits. **(3 points)**

Plan Objectives (15 points)

30. Describe how the project will improve the quality of representation for state intervention clients, including how it will achieve greater compliance with the *ILS Standards for Parental Representation in State Intervention Matters* (<https://www.ils.ny.gov/files/ParentalRepresentationStandards>). **(15 points)**

C. Data Collection, Performance Measurement, and Evaluation (15 points)

This section discusses how the impact of the project will be measured and evaluated. (The type of data to be collected and reported to this Office on an annual basis is set out under Question 5, below.)

1. Describe the proposed provider's present state of data collection, including the nature of any "baseline" case and client information. **(2 points)**
2. Describe the proposed provider's existing or contemplated database and/or system for tracking client information, caseloads, non-legal staff assignments, client contacts, attorney appearances, and case outcomes. **(2 points)**
3. Describe the proposed process for collecting and analyzing feedback from relevant stakeholders (e.g., clients, the courts, the child welfare agency, service providers, community-based organizations, civil legal services organizations, etc.) about the project's services and activities, and how the feedback will be used to identify, inform, and make necessary operational adjustments and modifications. **(4 points)**
4. Describe any changes to the proposer's current infrastructure that will be needed to track the required data described in Question 5, below, and how these changes will be accomplished. **(2 points)**

5. Describe how the data described below (“Data Collection”) will be collected and recorded in ways that are valid, accurate, and reliable. Explain who will be responsible for gathering and recording the requested data. **(5 points)**

Data To Be Collected and Reported - The grantee of this RFP will be expected to provide both quantitative and qualitative data to ILS demonstrating the impact of its work on the quality of representation provided and on resulting outcomes. The grantees will annually report to ILS the following data:

1. **Aggregated demographic information on each client's:**

- Race
- Ethnicity
- Age
- Immigration status
- Relation to child(ren)

2. **Pre-petition Representation**

- a. The total number of new pre-court, CPS investigatory cases opened during the contract period, broken down into:
- i. Those in which a child protective petition was subsequently filed.
 - ii. Those in which no child protective petition was subsequently filed.

3. **Court Intervention Representation**

- a. The total number of new court intervention cases opened during the contract period broken down by number of petitions in each of the following categories:
- i. Abuse
 - ii. Neglect
 - iii. Permanency
 - iv. Termination of parental rights
 - v. Other case types (specify)
- b. Within the court intervention caseload, number of cases in which a child was:
- i. Not removed
 - ii. Removed pursuant to Fam. Ct. Act § 1021 (temporary removal with consent of parent)
 - iii. Removed pursuant to Fam. Ct. Act § 1022 (nonconsensual removal upon court order)
 - iv. Removal pursuant to Fam. Ct. Act § 1024 (emergency removal without court order)

- v. Other (specify)
- c. The number of Family Court Act §1027 hearings conducted during the contract period, broken down by number of hearings resulting in:
 - i. Child remained at home (no out-of-home placement)
 - ii. Child placed with relative or suitable person
 - iii. Child placed in non-relative foster care
 - iv. Child placed with other authorized agency
 - v. Other (specify)
- d. The number of Family Court Act § 1028 hearings conducted during the contract period broken down whether the child was:
 - i. returned home
 - ii. continued in out-of-home care
 - iii. Other (specify)
- e. In removal cases, the number of cases in which reunification with the client occurs within: (a) 6 months and (b) within 1 year of removal.
- f. In cases in which the child was not removed, or was returned to the client after removal, the number of cases in which the child was subsequently placed in out- of-home care during the contract period (i.e., re-entry into foster care).

4. **Caseload and Workload**

- a. The number of new **pre-court (investigation) state intervention** cases assigned to each attorney during the contract period.
- b. The number of new **post-petition state intervention** cases assigned to each attorney during the contract period.
- c. The number of **non-state intervention cases** (e.g. related family court cases such as family offense, custody, visitation, paternity, etc. and other related matters, e.g., other civil, criminal, or administrative matters) assigned to each attorney during the contract period.
- d. The average number of open **state intervention** cases per attorney at the end of the contract period.
- e. The average number of open non-state intervention cases per attorney at the end of the contract period.
- f. The number of new clients assigned to each social worker, and to each parent advocate during the contract period.
- g. The average number of clients assigned to each social worker and to each parent advocate at the end of the contract period.

5. **Case Outcomes**

- a. Outcome of **abuse** petitions by disposition, i.e.:

- i. dismissed before trial
 - ii. settled before trial
 - iii. allegations established after trial
 - iv. allegations established by admission
 - v. allegations established by consent
 - vi. allegations not established
 - vii. Other (specify)
- b. Outcome of **neglect** petitions by disposition, i.e.:
- i. dismissed before trial
 - ii. settled before trial
 - iii. allegations established after trial
 - iv. allegations established by admission
 - v. allegations established by consent
 - vi. allegations not established after fact-finding
 - vii. Other (specify)
- c. Outcome of **termination of parental rights** petitions, i.e.:
- i. Petition dismissed before fact-finding
 - ii. Petition dismissed after fact-finding (allegations not established)
 - iii. Petition granted (allegations established, parental rights terminated)
 - iv. Suspended judgment
 - v. Other (specify)

6. **Multidisciplinary and Holistic Representation**

- a. The number of cases in which a support staff was assigned, broken down by type of staff (e.g., social worker, parent advocate, investigator, expert, etc.).
- b. The number and nature of any stays, interlocutory/interim appeals and outcomes of each.
- c. The number and nature of direct appeals, and outcomes of each.
- d. The number and nature of any legal representation provided or obtained with respect to matters collateral to the state intervention case, **and a brief narrative** describing the impact of such representation on the related state-intervention case.
- e. The number and nature of any non-legal assistance obtained for clients as a result of Model Office staff advocacy (e.g., mental health, employment, child care, etc).

II. Budget and Cost (40 points)

Grant applications will be evaluated and rated on efficient use of funds and overall cost-effectiveness, which includes budget plans that are consistent with the proposed action plan,

administrative costs, justification for each requested budget line and cost benefit. Complete the attached Budget Form and return with the proposal, being sure to address the following:

1. *Budget*: Provide a detailed, **annualized three-year budget** containing reasonable and necessary costs. The budget for the proposed project must be consistent with the terms of the RFP and provide a justification for all expenses. **(15 points)**
2. *Subcontracting*: Describe whether the proposed budget will include subcontracting with another service provider to complete the terms described in this RFP and, if so, provide a brief description of the purpose of the subcontract. **(5 points)**
3. *Budget Justification*: Include a brief narrative for each budget line justifying the budget request and relating the requested line budget amount to the plan of action and expected results. The narrative should be mathematically sound and correspond with the information and figures provided in the Budget Form. **(15 points)**
4. The *Budget Justification* must also describe how the county will monitor expenditures during the life of the grant to ensure that the project stays within the budget. **(5 points)**

Complete the attached Budget Form and return with the proposal.

Section VII: Review and Selection Process

The Office will conduct a two-level review process for all submitted proposals:

- The first level entails a Pass/Fail review, conducted by Office staff, of the submitted proposals to ensure that the application is responsive to the conditions set forth in the RFP. The Office will reject any applications that do not clearly and specifically address the purposes of this funding opportunity and/or fail to meet any of the following criteria:
 1. The RFP was submitted within the designated time frames;
 2. The RFP was submitted consistent with the format requested by the Office;
 3. The applicant is an eligible entity as specified within the RFP;
 4. The proposal purpose is for that intended by the RFP;
 5. The proposal included a budget submission.
- The second level consists of a scored comprehensive proposal review that involves a thorough review of the submitted proposal specifically related to the project work plan, performance measurement and evaluation, organizational capability, overall strength of plan, and the budget and corresponding budget narrative. The proposal review and rating will be conducted using the criteria stated in this Funding Announcement. The Office will typically use staff, and others with expertise in the RFP topic area, to comprise the proposal review team. Each reviewer will assign a score up to a maximum of 200 points to each application; individual scores will be averaged to determine the applicant's score. Applicants' scores will be ranked order. The Office reserves the right to conduct follow-up discussions with applicants to clarify information in the submitted proposal. In addition, in the event there are any remaining funds after making awards in accordance with the Review and Selection Process, the Office reserves the right to

allocate the grant funds in a manner that best suits program needs as determined by the Office. Such a plan will be subject to review and approval by the Office of the State Comptroller.

Awarding Grants

Contract Development Process

It is anticipated that applications will be reviewed and that successful applicants will be notified of funding decisions on or about June 2017. All commitments are subject to the availability of state funds. The proposal review team will recommend to the Office the highest ranked proposal that fully meet the terms of the RFP. The final total applicant score will be the cumulative total of the second level review.

The contract process and final contracts are subject to the approval of the State Attorney General and the Office of State Comptroller (OSC). Upon such approvals, the grant process will begin, and all terms of the contract become public information.

As part of the grant award process, the grantee and the Office will establish a mutually agreed upon final budget and work plan, which become the contract deliverables.

As part of the contract with the Office, grantees will be required to submit annual progress reports to the office. These reports should include narrative descriptions of successes achieved, obstacles encountered during implementation, and efforts to overcome these obstacles. Additionally, applicants should anticipate that data collected by the program in accordance with the requirements of section B of the proposal will be required to be reported in aggregate form to the office as a means of understanding the impact of the program, its successes, and the challenges that remain. ILS staff will be available to assist grant recipients with how to best collect these data in ways that are convenient to the program's capabilities, clearly assess the goals of the project, and assure the collection of information that is of the highest possible quality. The Office may suggest the use of a specific data collection protocol, or work with programs to employ existing, in-house case tracking software to produce data.

The Office reserves the right to:

- Negotiate with applicants, prior to award, regarding work plans, budget line levels, and other issues raised within the RFP review to achieve maximum impact from the grant award, and serve the best interests of New York State and ensure that budgets are consistent with proposed action plans; and
- If unable to negotiate the contract with the selected applicants within 60 days, the Office may begin contract negotiations with the next highest scoring qualified applicant(s).

Payment

Grantees may receive 25% of the total first year's award as a budget advance following contract approval by the Attorney General and the State Comptroller. Thereafter, each county will be reimbursed for expenses incurred pursuant to grant related activities including salary, benefits, travel, and related expenses. No payments will be made until the contract is fully executed and approved by the State Attorney General and the State Comptroller.

Funding Requirements

Indigent Legal Services funds distributed by the Office of Indigent Legal Services are intended to supplement county resources for supplying indigent defense services and to ensure proper legal representation for indigent defendants pursuant to Article 18-B of the County Law.

Supplanting is prohibited: Any funds awarded to a county pursuant to this RFP shall be used to supplement and not supplant any local funds, as defined in paragraph (c) of subdivision 2 of section 98-b of the State Finance Law, or state funds, including any funds distributed by the Office of Indigent Legal Services, which such County would otherwise have had to expend for the provision of counsel and expert, investigative and other services pursuant to Article 18-B of the County Law.

The issuance of this request for proposals does not obligate the Office of Indigent Legal Services to award grants.

Budget Form

County	
Budget Contact Person's Name	
Phone	
E-mail address	

Line Item	Year 1	Year 2	Year 3
Personal Service: Position (specify) Salary: Fringe Benefits:			
Personal Service Subtotal			
Contractual Services			
Contractual Subtotal			
Equipment (specify)			
Equipment Subtotal			
Other Than Personal Service (OTPS) (specify)			
OTPS Subtotal			
Miscellaneous			
Miscellaneous Subtotal			
TOTAL			
TOTAL THREE-YEAR BUDGET			