

# New York State Office of Indigent Legal Services

## *Funding Announcement*

### Upstate Family Defense (Child Welfare) Quality Improvement & Caseload Reduction Grant

#### NYS Office of Indigent Legal Services Request for Proposals

The New York State 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

<b>RFP Release Date</b>	<b>Thursday, August 12, 2021</b>
<b>Questions Due By</b>	<b>Monday, August 23, 2021 5:00 p.m. EST (Q &amp; A period closed)</b>
<b>Answers Posted By</b>	<b>Tuesday, August 31, 2021</b>
<b>Proposal Due Date</b>	<b>Friday, September 17, 2021 5:00 p.m. EST</b>
<b>Award Announcement</b>	<b>October 2021</b>
<b>Tentative Contract Start Date</b>	<b>December 2021</b>

#### Intent of this Request for Proposals

The Office is announcing the availability of funds and soliciting proposals from New York State counties to develop new, innovative programs or practices to improve the quality of

representation to parents<sup>1</sup> accused of child maltreatment who cannot afford to retain counsel, including reduced attorney caseloads, pre-petition access to counsel, practice integration of non-attorney professionals such as social workers and parent advocates, and high-caliber training opportunities.

The intent of this Request for Proposals (RFP) is to support local initiatives aimed at improving the quality of legal representation provided to parents in child protective matters as defined in Family Court Act Article 10.<sup>2</sup> Quality legal representation for parents in these proceedings is of heightened importance since the individuals targeted are disproportionately poor, Black and Indigenous, and typically lack the information, resources, and social capital necessary to respond effectively to government action which often includes temporary or permanent removal of a child from the parent. Improvements in this area will also promote better Family Court decision-making, reduce the needless separation of children from their families, save foster care costs, diminish disparate racial impacts, and reduce long-term costs to the state and to counties.

Initiatives that promote compliance with ILS' *Standards for Parental Representation in State Intervention Matters*<sup>3</sup> by reducing attorney caseloads, representing clients during CPS investigations prior to court intervention, introducing or enhancing multidisciplinary family defense practice, increasing access to specialized services, and prioritizing access to high-caliber training for staff are strongly encouraged.

Additionally, because the Office can supplement and increase the funding for this initiative via federal title IV-E funding, see 21-OCFS-INF-05,<sup>4</sup> the applicants are encouraged to demonstrate the ability to provide the Office the information needed to claim federal title IV-E funding.<sup>5</sup>

## **Section I: Background**

Parents' interest in their child's care and custody is one of the oldest and most fundamental liberty interests recognized by law.<sup>6</sup> Depriving a parent of the right to raise one's child is "often . . . the more grievous" compared to a prison sentence.<sup>7</sup> The United States Supreme Court has

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<sup>1</sup> 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.

<sup>2</sup> In this RFP, the terms "child welfare," "child protective" and "State intervention" are used interchangeably and refer generally to abuse and/or neglect proceedings pursuant to Article 10 of the Family Court Act, as well as foster care placement, termination of parental rights, surrender, destitute minor, and permanency planning proceedings. Child protective services agencies are referred to as "CPS" or "DSS" agencies.

<sup>3</sup> *Standards for Parental Representation in State Intervention Matters*, New York State Office of Indigent Legal Services (2015), <https://www.ils.ny.gov/files/Parental%20Representation%20Standards%20Final%20110615.pdf>.

<sup>4</sup> *Title IV-E Reimbursement for Legal Representation Services for Children and Parents in Child Welfare Proceedings*, <https://ocfs.ny.gov/main/policies/external/#INF>

<sup>5</sup> See Attachment B of 21-OCFS-INF-05.

<sup>6</sup> *Troxel v. Granville*, 530 U.S. 57, 65 (2000).

<sup>7</sup> *Lassister v. Department of Social Services*, 452 U.S. 18, 59 (1981) (Stevens, J., dissenting).

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."<sup>8</sup> Moreover, children have their own legal interest and right to be raised by their parent.<sup>9</sup>

Recognizing the need for due process protection of the fundamental liberty interests of family integrity and family autonomy, in 1972 the New York State Court of Appeals held that poor parents accused by the government of child maltreatment (Family Court Act Article 10) have a constitutional right to publicly-funded legal representation.<sup>10</sup> Citing the "gross inherent imbalance of experience and expertise" between the State and an unrepresented parent, the *Ella B.* Court reasoned 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."<sup>11</sup> In 1975, this decision was codified in §§ 261 and 262 of the New York Family Court Act. Family Court Act § 261 emphasizes that parents have a constitutional right to assigned counsel to protect the "fundamental interests and rights" implicated in various types of family law cases. Accordingly, our courts have made it clear that the constitutional standard of effective assistance of counsel afforded defendants in criminal proceedings under the New York State Constitution is equally applicable in state intervention cases.<sup>12</sup>

Despite these well-established constitutional and statutory mandates, attorneys representing parents in Article 10 matters face multiple challenges in providing meaningful representation. These challenges are detailed in the February 2019 *Interim Report of the Commission on Parental Representation*. Convened by Chief Judge Janet DiFiore, the Commission's mandate is "to examine the current state of representation for indigent parents in constitutionally and statutorily mandated family-related matters, and to develop a plan to ensure the future delivery of quality, cost-effective parental representation across the state."<sup>13</sup> The Commission found that the

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<sup>8</sup> *Santosky v. Kramer*, 455 U.S. 745, 753 (1982).

<sup>9</sup> 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.

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

<sup>11</sup> *Id.* at 356-357 (cites omitted).

<sup>12</sup> *Brown v. Gandy*, 3 N.Y.S.3d 486 (4<sup>th</sup> 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 (2d Dept. 1997).

<sup>13</sup> *Commission on Parental Legal Representation: Interim Report to Chief Judge DiFiore*, at 4. This report is available at: [http://ww2.nycourts.gov/sites/default/files/document/files/2019-02/PLR\\_Commission-Report.pdf](http://ww2.nycourts.gov/sites/default/files/document/files/2019-02/PLR_Commission-Report.pdf).

most prominent challenges providers face are overwhelming attorney caseloads, insufficient access to essential supports and resources, and failure to provide parents with timely access to counsel.

ILS' *Standards for Parental Representation in State Intervention Matters* call for, "...sufficient time and resources necessary to provide high quality representation to each client."<sup>14</sup>

Establishment of and compliance with caseload standards is an effective means of ensuring sufficient time and resources, and in fact, there are existing caseload caps for attorneys representing children<sup>15</sup> and for attorneys representing indigent criminal defendants.<sup>16</sup> In its 2019 Interim Report, the DiFiore Commission acknowledged that there are no existing caseload standards for attorneys representing parents in Family Court matters, and recommended an initial client cap of 50 to 60 clients in child welfare/family defense matters.<sup>17</sup> This temporary cap was recommended as a stopgap measure to mitigate the difficulty of providing effective representation with existing caseloads; the Commission further called for a study of caseloads to inform what final caseload standards should be adopted. Per this Recommendation, ILS, in cooperation with the Office of Court Administration, undertook an exhaustive and informed study and at its June 11, 2021 meeting, the ILS Board approved the *Caseload Standards for Parents' Attorneys in New York State Family Court Mandated Representation Cases* ("ILS caseload standards"), available at <https://www.ils.ny.gov/node/231/caseload-standards-parental-representation>. The ILS Board approval of these standards was made contingent on the availability of state funding to enforce them.

State funding has been made available to effectuate caseload standards in criminal cases. But while New York has "made significant strides in improving the representation of indigent criminal defendants in recent years"<sup>18</sup> as a result of the *Hurrell-Harring v. State of New York* settlement and subsequent state funding to expand those improvements statewide, mandated representation of parents in Article 10 matters continues to be under-funded and under-resourced.<sup>19</sup> Notably, the federal government has stepped in to assist States and local municipalities in their efforts to improve the quality of family defense: in 2019 the federal Children's Bureau issued revised and new policies that allow State Title IV-E agencies (in New York, the Office of Children and Family Services (OCFS)) to obtain federal subsidy for certain

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<sup>14</sup> New York State Office of Indigent Legal Services *Standards for Parental Representation in State Intervention Matters*, See D-2. <https://www.ils.ny.gov/files/Parental%20Representation%20Standards%20Final%20110615.pdf>

<sup>15</sup> 22 NYCRR § 127.5.

<sup>16</sup> Executive Law § 832 (4); ILS, A Determination of Caseload Standards, ILS, A Determination of Caseload Standards pursuant to § IV of the *Hurrell-Harring v State of New York Settlement* (Dec. 2016), available at <https://www.ils.ny.gov/files/Caseload%20Standards%20Report%20Final%20120816.pdf>.

<sup>17</sup> *Commission on Parental Legal Representation: Interim Report to Chief Judge DiFiore*, at 34.

<sup>18</sup> *Commission on Parental Legal Representation: Interim Report to Chief Judge DiFiore*, at 9. [http://ww2.nycourts.gov/sites/default/files/document/files/2019-02/PLR\\_Commission-Report.pdf](http://ww2.nycourts.gov/sites/default/files/document/files/2019-02/PLR_Commission-Report.pdf)

<sup>19</sup> *Memorandum in Support of State Funding for Mandated Parental Representation*, New York State Bar Association, Committee on Families and the Law (January 2018), <https://nysba.org/app/uploads/2020/02/CORRECTED-FINAL-4-17-2018.pdf>

expenses related to representation of parents in all stages of child protective matters, from CPS investigations through terminations of parental rights and appeal proceedings.<sup>20</sup> For these reasons, this RFP is targeted specifically for caseload reduction and quality improvement initiatives for the representation of assigned counsel eligible parents in child welfare/family defense matters.

Specifically, the Office encourages counties to submit proposals to reduce attorney caseloads, enhance access to supports and training, or both. This may take the form of hiring or designating attorneys who focus their practice on child welfare matters, hiring or contracting with social workers or parent advocates, hiring or contracting for administrative support such as a legal secretary or paralegal dedicated to supporting family defense, making funding available for training, or a combination of these initiatives. With this funding opportunity, the Office intends not only to tackle some of the systemic issues that frustrate the provision of effective family defense, but also to assess the extent of the benefits that accrue to parents and their children when those conditions are ameliorated.

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

The Office has therefore established this RFP to assist counties to implement initiatives that improve the quality of legal representation provided to parents in child protective matters as defined in Family Court Act Article 10. This RFP funding may also be used to represent parents on other Family Court petition types that occur during the representation of the parent on the Article 10 matter.<sup>21</sup>

**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.**

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<sup>20</sup> *Utilizing Title IV-E Funding to Support High-Quality Legal Representation and Promote Child and Family Well-Being*, ACYF-CB-IM-21-06 , U.S. Dep't of Health and Human Services, Administration for Children and Families, Children's Bureau, (January 14, 2021), <https://www.acf.hhs.gov/cb/policy-guidance/im-21-06> ; see also Mark Hardin, *Claiming Title IV-E Funds to Pay for Parents' and Children's Attorneys: A Brief Technical Overview*, Child Law Practice Today, American Bar Association (February 2019), [https://www.americanbar.org/groups/public\\_interest/child\\_law/resources/child\\_law\\_practiceonline/january---december-2019/claiming-title-iv-e-funds-to-pay-for-parents-and-childrens-attor/](https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/january---december-2019/claiming-title-iv-e-funds-to-pay-for-parents-and-childrens-attor/)

<sup>21</sup> ILS understands that clients facing Family Court Article 10 matters often face other Family Court petition types during the pendency of the Article 10 matter. To promote comprehensive and holistic representation of clients, the funding from this RFP can be used for representation on these other petition types that arise during the representation of a client on an Article 10 matter.

Funding of this proposal is limited to the representation of clients pursuant to County Law Article 18-B in Family Court Article 10 matters and other Family Court petition types that occur during the representation of the client at all stages of the Article 10 matter, including during a CPS investigation before court action is initiated. Specifically, proposals are sought for the provision of mandated representation in such matters that would enhance existing services, create new and innovative approaches which address the quality of representation, or both, including:

- *Reduced caseloads*: Proposals that will seek to reduce attorney caseloads to enhance the quality of representation in Family Court Article 10 proceedings are strongly encouraged. In addition to describing quality enhancements to be achieved, applicants are encouraged to identify any protocols to be implemented (in addition to reduced caseloads) that will effectuate quality enhancements. Examples of caseload relief-related quality enhancements include: opportunities for pre-petition, CPS investigation representation; better attorney-client communication; more vigorous litigation, motion, and appellate practice; more time for legal research and case fact investigation; more time to strategize, prepare for, and engage in negotiation where appropriate; more time devoted to accessing and effectively using specialized services on cases; and fewer continuances due to attorney scheduling conflicts.
- *Increased access to and use of specialized services*: As set forth in the ILS *Standards for Parental Representation in State Intervention Matters*, a multi-disciplinary approach is foundational to quality representation in Article 10 cases, and attorneys “must work with professionals trained to understand, analyze, and address non-legal aspects of a client’s life that impact the legal case.” Additionally, the “assistance of experts and other ancillary services are among the basic tools needed for high quality representation in state intervention cases.”<sup>22</sup> Thus, proposals that involve increased access to and utilization of specialized resources including social workers, parent advocates, or administrative resources are also encouraged.
- *Increased opportunities for high quality practical, skills, and theoretical trainings*. As set forth in ILS *Standards for Parental Representation in State Intervention Matters*, because of the gravity of Family Court Article 10 matters, attorneys representing clients in such matters “must possess sufficient experience, training, knowledge, and skills necessary to provide high quality representation...”<sup>23</sup> Accordingly, proposals that enhance access to high-caliber trainings, including legal content and skills-based trainings, are encouraged.

Because the purpose of this RFP is to improve the quality of representation provided to parents who cannot afford to retain counsel in Family Court Article 10 matters, applicants need not propose solutions that cover a provider’s entire program of providing mandated representation.

Applicants should state the bases upon which the determination was made to select the approach or approaches chosen to be included in the proposal, such as current caseloads of attorneys

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<sup>22</sup> See Standard G and Commentary

<sup>23</sup> See Standards B and C

providing representation in Family Court matters, the efficacy of having one or more attorneys specialize in Family Court Article 10 matters, the best means for the particular applicant to ensure access to specialized supports (i.e., hiring, contracting, or both), geographic considerations, or amenability to collaboration among the entities involved in the proposal. No one specific basis is required to secure an award nor do the bases noted here constitute an exclusive list.

### **Section III: Funding and Contract Period**

The total available funds for awards are \$2,500,000.00 (\$833,333.33 per year for each of three years). The total available funds will not necessarily be divided equally, nor will selected applicants be guaranteed the entire amount requested.

**The maximum amount to be awarded to any one county is \$500,000.00 (\$166,666.66 per year for three years).** Counties may submit proposals either at or less than the maximum amount. If additional funds become available, the Office reserves the right to approve additional projects under the authority of this funding announcement or restore funding.

Grants will be issued for a period of three years.

### **Section IV: Who Is Eligible to Apply for This Request for Proposals**

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

### **Section V: Instructions for Completing This Request for Proposals**

The RFP is available online at <https://www.ils.ny.gov/node/224/pending-rfps> (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 [Jessica.Bogran@ils.ny.gov](mailto:Jessica.Bogran@ils.ny.gov) or by telephone at (518) 935-7868.

No responses will be provided to inquiries made by telephone other than to request a copy of this 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 **Monday, August 23, 2021** by 5:00 pm Eastern Standard Time (EST) to [QA@ils.ny.gov](mailto: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 a copy of this RFP.

Questions will not be accepted orally.

Questions received after 5:00 pm EST the date of the deadline will not be answered.

**When corresponding by e-mail, clearly indicate the subject as: “Upstate Family Defense (Child Welfare) Quality Improvement and Caseload Reduction RFP.”** The name of the party submitting the question will not be posted.

Questions and answers will be posted on the “*Questions Posted By*” date as stated on the cover of this RFP (August 31, 2021) at the following URL webpage address:

<https://www.ils.ny.gov/node/224/pending-rfps> (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, email, or hand delivery*):**

All submissions must contain the complete application.

**All applications must be received by Friday, September 17, 2021 by 5:00 p.m. 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 Street  
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*)  
11<sup>th</sup> Floor, Suite 1147  
80 South Swan Street  
Albany, NY 12210

**Electronic applications:** Electronic applications will be accepted.

Electronically submitted proposal applications must be submitted to [RFP@ils.ny.gov](mailto: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 Family Defense (Child Welfare) Quality Improvement and Caseload Reduction RFP.”**

After you submit your application at [RFP@ils.ny.gov](mailto: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, contact Jennifer Colvin at (518) 486-9713.

### **Application Format:**

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

1. Project Summary (not more than two (2) pages in length)
2. Proposal Narrative (not more than ten (10) pages in length)
3. Budget (see Attachment A of this RFP) and Justification (not be more than two (2) pages in length).

**Applications must be received by Friday, September 17, 2021 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**

### **I. PROJECT SUMMARY (not scored)**

Provide a summary of your proposal which includes the information listed below. **To ensure uniformity, please limit the length of this summary 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.**

The Project Summary should include the following information:

- Identification of the county requesting funds;
- The authorized county official or designated employee of the applicant county’s governing body to whom notification of a grant award shall be sent. Please include contact information: name, title, phone number, address, and email address.
- Fiscal intermediary name and address (identify the department and/or individual responsible for fiscal reporting for this project);
- Amount of funding requested; and
- A concise description of the proposed project.

## II. PROPOSAL NARRATIVE

### A. Plan of Action (54 points)

Please address the questions listed below and do so in the order and format in which they are presented, i.e., responses should be made in the same order as requested and each response should identify the specific item being addressed. Applicants will be evaluated on the information they provide. The Proposal Narrative should not be more than ten (10) pages in length (double-spaced pages, with margins of 1 inch on all sides, using no less than a 12-point font). *Please do not submit any information that was not specifically requested.*

#### Problem Statement

1. Describe the issue or problem in providing quality representation in Family Court Article 10 matters that your plan is intended to improve or correct, including, but not limited to, the impact of excessive caseloads in providing quality representation.
2. Document the nature and extent of the problem to be addressed, including any data collection or analysis related to the problem.
3. State the bases upon which the determination was made to select the approach or approaches chosen to be included in your proposal.

#### Plan Implementation

4. Describe how you will implement a plan to address these obstacles to providing quality representation. The plan must specify the particular problem(s) being addressed (e.g., excessive caseloads, insufficient access to specialized services that allow for multi-disciplinary approach to representation, insufficient access to expert services, insufficient access to trainings, etc.).
5. Please describe how you will structure your professional and non-professional staffing to implement your plan, including whether existing staff will perform tasks, or if new staff will need to be hired.
6. Identify any training or mentoring you may need to accomplish your plan objectives, how you intend to acquire or provide such training/mentoring, and which positions, including supervisory staff, will receive the training/mentoring.
7. Describe how you will assure the program is feasible and will monitor the program such that obstacles to implementation can be identified and necessary adjustments made.

#### Plan Objectives

8. Specify how the project will improve the quality of representation that clients receive and achieve greater compliance with ILS standards, particularly *ILS Standards for Parental Representation in State Intervention Matters*.

## **B. Data Collection, Performance Measurement, and Evaluation (20 points)**

This section will discuss how you will measure the impact of your project. Descriptions of what data will be collected and how data will be collected are required in this section.

### Implementation

9. Describe how you will demonstrate that your plan has been successfully implemented. For example, if your plan will reduce caseloads, specify how you will measure caseloads in a way that is appropriate to gauge the success of your plan.<sup>24</sup> If your plan will increase support staff or other resources for attorneys, specify how you will show that these resources, or attorney access to them, were increased. Please also provide ‘baseline’ information on any quantitative measures you propose and a narrative account describing relevant features of your program as it stands at present.

### Evaluation and Impact

10. Describe the expected improvements in quality of representation that will result from your plan, and how these will also be measured. Such measures should reflect attorney behaviors that you expect will change when your plan is implemented. Examples include: engaging in representation during the CPS investigation stage; the average number of attorney visits with clients or client families per case; the average number of hours attorneys spend preparing cases; attorney use of specialized services such as social workers, parent advocates, etc.; the average number of motions, by type, filed per case; the rate at which attorneys are present at a client’s first appearance in court; and any other measures as appropriate to the quality goals of your plan. Please also provide ‘baseline’ figures for the measures you will use which reflect the situation in your program as it stands at present if such measures are available.

### Infrastructure

11. Describe how you plan to track relevant data in relation to points 9 and 10 above for every case in ways that are valid, accurate and reliable and who will input the data, including, but not limited to the type of case management system that will be used to track data.
12. Describe any changes you would need to make to track required data and how these would be accomplished, including implementation of office protocols for collecting information and changes to your case management system or other systems for maintaining and reporting data.

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<sup>24</sup> ILS recognizes that for many counties, the funding made available in this RFP will not be sufficient for compliance with the ILS *Caseload Standards for Parents’ Attorneys in New York State Family Court Mandated Representation Cases*. Nonetheless, applicants seeking to reduce attorney caseloads should refer to these standards both for a sense of the optimum attorney caseloads in Family Court matters and for information about measuring caseloads.

### C. Applicant Capability and Personnel (6 points)

13. Identify who will be the lead person(s) responsible for project implementation, and their qualifications.
14. Describe how and to what extent you consulted with the leader of each provider of Family Court representation under Article 18-B of the County Law. If applicable, describe the willingness of other agencies to cooperate in the implementation of the program.

### III. Budget and Cost (20 points)

Grant applications will be evaluated and rated on consistency with the proposed action plan, efficient use of funds and overall cost-effectiveness, and clarity. Complete the attached Budget Form and return with the proposal, being sure to address the following:

15. *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.
16. *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.
17. *Budget Justification*: Include a brief narrative for each budget line explaining the 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. 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.

**Complete the attached Budget Form (Attachment A) 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, 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 100 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 the event of a tie (identical scores), the Office will look at the highest scores of these sections of the proposals to determine an award: first, the "Budget and Cost" portion of the proposal, and if these scores are the same, next the "Plan of Action" portion of the 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 of Grants**

### **Contract Development Process**

It is anticipated that applications will be reviewed and that successful applicants will be notified of funding decisions in October 2021. All commitments are subject to the availability of state funds. The proposal review team will recommend to the Office the highest ranked proposal(s) that fully meet the terms of the RFP. The funds will be awarded in rank order from the highest to the lowest proposal scores. 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 a narrative of 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 II 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).

### **Debriefings**

Unsuccessful applicants may, within ten (10) business days of notification of non-selection, request a debriefing with the Office to discuss the evaluation of their proposal. Such request may be submitted in writing to [QA@ils.ny.gov](mailto:QA@ils.ny.gov) (hit: Ctrl + (right) Click to follow link in Outlook).

### **Payment**

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**

Funding for this RFP has been appropriated to improve the quality of mandated parental representation and is intended to supplement (add to, not replace) county resources for supplying such representation.

***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.

### Attachment A: 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:			
<b>Personal Service Subtotal</b>			
Contractual Services			
<b>Contractual Subtotal</b>			
Equipment (specify)			
<b>Equipment Subtotal</b>			
Other Than Personal Service (OTPS) (specify)			
<b>OTPS Subtotal</b>			
Miscellaneous			
<b>Miscellaneous Subtotal</b>			
<b>TOTAL</b>			
<b>TOTAL THREE-YEAR BUDGET</b>			