

REQUEST FOR PROPOSALS (RFP)

RFP Number: DMR-RFP-LEG-88

The Ohio Department of Developmental Disabilities (DODD), Division of Legal and Oversight, is requesting proposals for:

Legal Hearing Examiner

For the Period: **State Fiscal Year 2022 - July 1, 2021 through June 30, 2022**

State Fiscal Year 2023 - July 1, 2022 through June 30, 2023

RFP Issued: March 1, 2021
Inquiry Period Begins: March 1, 2021
Inquiry Period Ends: March 19, 2021
Proposals Due: March 29, 2021 at 3:00 pm

Submit Proposals via e-mail to:

Ohio Department of Developmental Disabilities
DMRProcurement@dodd.ohio.gov

This RFP consists of five (5) parts and two (2) attachments, totaling fifteen (15) consecutively numbered pages. Please verify that you have a complete copy.

Please submit all inquiries about this RFP through the State Procurement web site at www.ohio.gov/procure. Please refer to Part Three of this RFP, "General Instructions", for instructions on submitting inquiries through the State Procurement web site. All responses to inquiries submitted by Proposers will be posted on the State Procurement website for viewing by all prospective Proposers.



PART ONE: STRUCTURE OF THIS RFP

PARTS

Part One	Structure of this RFP
Part Two	Information on requested services
Part Three	General Instructions
Part Four	Evaluation of Proposals
Part Five	Contract Award

ATTACHMENTS

Appendix 1 – Standard Affirmation and Disclosure Form

- Standard Affirmation and Disclosure Form must be signed by an authorized official of Proposer's organization and must be included for any proposal to be scored

Appendix 2 – Contractor Information Form

- Contractor Information Form must be completed and submitted with the proposal.

PART TWO: SERVICES REQUESTED INFORMATION

I. MISSION & GUIDING PRINCIPLES

The Ohio Department of Developmental Disabilities (DODD) is responsible for overseeing a statewide system of services and supports for people with developmental disabilities and their families. The mission of DODD is continuous improvement of the quality of life for Ohio's citizens with developmental disabilities and their families.

DODD will:

- Create less complex service, deliver, with fair and logical payment systems that are federally compliant
- Continue to be good stewards of limited resources
- Provide quality outcomes through a combination of people and processes
- Design service delivery models in response to choices made by the people served, in alliance with community supports
- Develop a system-wide vision and long-range strategic plan by listening to our funding partners, constituents and stakeholders

II. BACKGROUND

The Ohio Department of Developmental Disabilities ("DODD") is a state agency dedicated to the continuous improvement of the lives of individuals with developmental disabilities. In support of this mission, DODD reviews applications from persons to provide several types of services to individuals with developmental disabilities and monitors certified providers to ensure they are following the rules and regulations governing their conduct. The applications include certification to provide supported living, medication administration and health-related activities, and for employees of county boards of developmental disabilities. DODD has an administrative rule that allows it to place people who have abused or neglected individuals with developmental disabilities on an abuser registry that prohibits entities licensed or certified by DODD from hiring persons on the registry. DODD also licenses facilities where individuals with developmental disabilities reside. These facilities vary greatly in size, from large institutions housing over 100 people, to four bed facilities that are like any average home in the community. Whenever DODD proposes to place a person on the abuser registry or take any adverse action against a facility, a provider, an applicant seeking certification, or an applicant seeking to operate a facility, the person adversely affected has the right to contest the action in a due process hearing in accordance with Ohio Revised Code Chapter 119, Ohio's Administrative Procedure Act.

DODD also has an administrative rule that permits certain individuals to request an in-house hearing when they believe DODD is not acting in accordance with its own statutes and rules. These complaints are not conducted in accordance with Ohio Revised Code Chapter 119, but still require an impartial determination of whether DODD's actions are supported by applicable statute or rule.

In addition, DODD audits and conducts fiscal reviews of providers to determine compliance with Medicaid regulations. If DODD believes an overpayment has occurred, DODD acts in accordance with Ohio Revised Code section 5164.58 and Ohio Administrative Code Section 5160-71 to recover the overpayment. These proceedings afford providers a due process hearing in accordance with Ohio Revised Code Chapter 119.

Finally, DODD has an administrative rule that permits parents to file a due process complaint on any matter related to the identification, evaluation, or placement of a child, or the provision of early intervention services to a child with a disability and his or her family under Part C of the Individuals with Disabilities Education Improvement Act.

III. PURPOSE

The Ohio Department of Developmental Disabilities (DODD) is seeking proposals from qualified contractors to preside over all of the hearings described above.

IV. SCOPE OF WORK AND DELIVERABLES

The duties of the Contractor selected as a hearing examiner under this RFP are:

- A. Conduct adjudication hearings in accordance with Ohio Revised Code Chapter 119 and in-house administrative hearings in accordance with the Ohio Administrative Code.
- B. Issue a Report and Recommendation (“R&R”) to the Director for consideration. In most instances, these R&R’s shall be submitted to DODD within 30 days of the later of the following events: the conclusion of the hearing, receipt of the transcript, or receipt of any post-hearing briefs.

In two situations, the time for submitting the R&R is shorter. First, for hearings regarding provider suspension orders, the R&R shall be submitted within 10 days. Second, for early intervention due process hearings, the parent has the right to a completed hearing and a written decision within 30 days after the receipt of the complaint.

The only exception to this requirement is when the hearing examiner shows extraordinary good cause, which is left to the determination of the contract supervisor, DODD’s Chief Legal Counsel. Any R&R that is not timely filed can, at DODD’s discretion, result in a 2% per day reduction in fees owed to the hearing examiner.

- C. The chosen Contractor shall not accept employment with or represent any party in any matter relating to DODD during the term of the contract.
- D. The Contractor shall not bill DODD for services until the R&R has been submitted to DODD unless work has been performed on a case such as the issuance of a scheduling order and decisions on pre-hearing motions.

V. MINIMUM QUALIFICATIONS OF CONTRACTOR

Contractor must be an attorney licensed to practice law in the State of Ohio.

Contractor shall not be subject to an “unresolved” finding for recovery under Section 9.24 of Ohio Revised Code.

VI. ETHICAL AND CONFLICT OF INTEREST REQUIREMENTS

No contractor or individual, company or organization seeking a contract shall promise or give to any DODD employee any item of value that is of such character as to manifest a substantial and improper influence upon the employee with respect to his or her duties.

No contractor or individual, company or organization seeking a contract shall solicit any DODD employee to violate any of the conduct requirements for employees.

Any contractor acting on behalf of DODD shall refrain from activities that could result in violations of ethics and/or conflicts of interest. Any contractor or potential contractor who violates the requirement and prohibitions defined Section 102.03 or Section 102.04 of the Ohio Revised Code is subject to termination of the contract or refusal by DODD to enter into a contract.

PART THREE: GENERAL INSTRUCTIONS

The following sections provide a calendar of events, details on how to respond to this RFP and how to get more information about this RFP. All responses must be complete and in the prescribed format.

I. CALENDAR OF EVENTS & ON-LINE INFORMATION

The schedule for this RFP is given below and is subject to change. DODD may change this schedule at any time. If DODD changes the schedule before the Proposal Due Date, it will do so through an announcement on the State Procurement web site area for this RFP at the following link: <http://procure.ohio.gov/proc/index.asp>. The web site announcement will be followed by an addendum to this RFP, which also will be made available through the same State Procurement web site.

It is each prospective Proposer's responsibility to check the State Procurement web site's question-and-answer area for this RFP for current information and the calendar of events scheduled through award of any contract.

Other than by adherence to the RFP Inquiry process, set forth below, no contact related to this RFP shall be made with DODD until a contract award is announced. Notwithstanding this prohibition, DODD, at its sole discretion, may request additional information as part of the review process outlined below.

Firm Dates

RFP Issued:	March 1, 2021
Inquiry Period Begins:	March 1, 2021
Inquiry Period Ends:	March 19, 2021 8:00 am
Proposal Due Date:	March 29, 2021 at 3:00 pm

Estimated Dates

Contract Award Notification:	April 12, 2021
Issuance of Purchase Order:	To be determined

II. PROPOSAL FORMAT

To be accepted, a proposal must include a technical proposal and a cost proposal as described in this section, contain all the information specified for each of the categories listed in this section, and meeting the requirements of this section

A. Technical Proposal

a. Transmittal letter includes:

- Identifies the bidder and states bidder is an attorney licensed to practice law in Ohio
- The name, title, address, and telephone number of the proposer's contract person with authority to answer questions concerning the RFP
- The name, title, address, telephone number, and email address of the proposer's contact person with authority to execute a contract on behalf of the proposer.

- b. Organizational experience including:
 - Information on the background of the firm or individual, including background information of any subcontractor(s)
 - Any prior experience relevant to this RFP (includes current contact names and phone numbers for these references), and a list of similar projects currently underway by the bidder or by any subcontractor(s) as well as completed over the past three (3) years. The Evaluation/Selection Review Committee will consider these additional references and may contact each of these sources.
 - Written statement that clearly describes why the bidder should be selected to perform the services described in Scope of Work section above.

- c. Technical Approach and work plan that indicates how the bidder plans to address the purpose, objectives and deliverables, within the timeframes as stated in this RFP.
 - A procedure for reporting the status of the project, including work completed.
 - A proposal for how coordination will occur and how information will be shared with DODD
 - A chart indicating the names of staff and staff hours/activities/tasks linked to the responsibility of each of those individuals involved in each deliverable of the project
 - Writing samples of previous related projects

- d. Personnel Qualifications
 - Must include names, resumes, education, and experience of personnel listed in the table of organization/personnel chart for this project (including any subcontractors), and fully explain how their education and experience is relevant to this RFP.
 - DODD shall require a clause in the resulting contract regarding key personnel that any person identified as critical to the success of the project may not be removed without reasonable notice to DODD.
 - One Project Manager shall be named on behalf of the bidder. All correspondence shall be directed through this named individual.

B. Cost Proposal

The cost proposal must indicate the hourly rate the bidder will charge if awarded a contract pursuant to this RFP.

DODD will not compensate contractors for travel time to and from hearings. Travel costs associated with work of this contract are not reimbursed by DODD and should be encompassed within the hourly rate.

The maximum compensation under an awarded contract is \$15,000 each fiscal year for a maximum contract amount of \$30,000. The maximum contract amount is not a guaranteed payment to the Contractor. The Contractor will only be paid for hours actually worked on the contract up to the contract maximum.

III. **PROPOSAL SUBMITTAL**

Proposals must be submitted in the following manner:

- **Proposals must be submitted via e-mail by no later than 3/29/2021 at 3:00 pm to DMRProcurement@dodd.ohio.gov.**
- Subject of email should be "Legal Hearing Examiner"
- All pages must be numbered consecutively using the format "Page [#] of [total number of pages]" (e.g., Page 2 of 20).
- Standard Affirmation and Disclosure form completed and submit with proposal
- Contractor Information form completed and submit with proposal

Proposers are advised there will be no opportunity to correct mistakes or deficiencies in their submitted materials after the Proposal Due Date. Proposals that are incomplete or otherwise missing required information may not be evaluated.

It is the Proposer's responsibility to ensure timely submission of a complete Proposal. Late Proposals will not be scored. DODD is under no obligation to consider a Proposal which is received after the Proposal Due Date or that is incomplete. Proposals that are not submitted in the format requested will not be scored.

No supplementary or revised materials will be accepted after the Proposal Due Date unless specifically requested by DODD.

All costs incurred in the preparation of the Proposal shall be borne by the Proposer alone, and DODD shall not contribute, in any way, to the cost of the preparation of the Proposal.

Any and all documents developed by the Proposer during the course of this project will be provided to DODD upon request and will become the property of DODD, and the Proposer shall not assert any claims arising under copyright or otherwise inconsistent with the transfer of ownership of such documents.

All information submitted by the Proposer will be considered to be public information unless the proposer specifically demonstrates, in writing, which information it considers to be proprietary. "Proprietary information" is information which, if made public, would put the proposer at a disadvantage in the market place and trade in which the proposer is a part. Consequently, an assertion of "proprietary information" must be clearly identified and the basis of the assertion must be included. It is not adequate for the bidder to simply state that disclosure of the information will put it at a disadvantage in the market place. DODD will make the final decision as to whether information is "public" or "proprietary".

DODD reserves the right to:

- Accept or reject any and all Proposals and/or bids if DODD determines that it is in the best interests of the State to do so.
- Rebid this RFP, requesting new Proposals from qualified firms.
- Waive or modify minor irregularities in Proposals received.
- Negotiate with Proposer(s), within the requirements of this RFP, to best serve the interests of the State of Ohio.
- Require the submission of modifications or additions to Proposals as a condition of further participation in the selection process.

- Fund any Proposal in full or in part; any assignments of work by DODD under the scope of this RFP will be made dependent on need and the availability of adequate, specific funding.
- Not make an award at the end of the evaluation process; this RFP is not to be interpreted or construed to guarantee that one or more Proposers submitting responses will be awarded contracts.
- Adjust the RFP Calendar of Event dates for whatever reason it deems appropriate.
- Contact Proposer to clarify any portion of the Proposer's submittal.

If, during the review process, DODD determines that it is necessary to make further distinctions between certain Proposers, DODD may request certain selected Proposers to interview or make a presentation to staff and reviewers. The Proposer shall bear the cost of travel to any scheduled interview.

In accordance with federal and state statutes and DODD policy, no person shall be excluded from participation or subject to discrimination in the RFP process on the basis of race, color, age, sex, national origin, military status, religion, or disability.

IV. INQUIRIES

From the issuance date of this RFP, until a contract is awarded to a proposer, there may not be communications concerning the RFP between any supplier who expects to submit a proposal and any employee of DODD involved in the issuing of the RFP. The only exception is provided through the submission of written requests for clarification/interpretation via the state procurement website during the inquiry period.

Prospective Proposers may make inquiries or seek clarifications regarding this RFP any time during the inquiry period listed in the RFP Calendar of Events. To make an inquiry, prospective Proposers must use the following process:

1. Access the State Procurement web site at <http://www.procure.ohio.gov>.
2. From the Navigation Bar at the top, select "for Suppliers".
3. Under the title "Bid Opportunities", select "All Opportunities".
4. Enter the RFP Number found on Page 1 of this document as the "Document/Bid Number".
5. Click the "Search" button.
6. Select this RFP.
7. On the document information page, click the "Submit Inquiry" button.
8. On the document inquiry page, complete the required "Personal Information" section by providing the following:
 - a. First and last name of the prospective Proposer's representative who is responsible for the inquiry;
 - b. Name/Company/Business of the prospective Proposer;
 - c. Representative's business phone number; and
 - d. Representative's e-mail address.
9. Type the inquiry in the space provided, making certain to include the following:
 - a. A reference to the relevant part of this RFP;
 - b. The heading for the provision under question; and
 - c. The page number of the RFP where the provision can be found.
 - d. Enter the Security Number.
10. Click the "Submit" button.

Prospective Proposers submitting inquiries will receive an immediate acknowledgement by e-mail that their inquiry has been received. **The prospective Proposer who submitted the inquiry will not receive an e-mail response to the question, but will need to view the response on the State Procurement web site where it will be posted for viewing by all prospective Proposers.**

Prospective Proposers may view inquiries using the following process:

1. Access the State Procurement web site at <http://www.procure.ohio.gov>.
2. From the Navigation Bar at the top, select "for Suppliers".
3. Under the title "Bid Opportunities", select "All Opportunities".
4. Enter the RFP Number found on Page 1 of this document as the "Document/Bid Number".
5. Click the "Search" button.
6. Select this RFP.
7. On the document information page, click the "View Q & A" button to display all inquiries with responses submitted to date.

DODD will try to respond to all properly posed inquiries within 48 hours, excluding weekends and state holidays. DODD will not respond to any inquiries received after 8:00 a.m. on 3/19/2021. Prospective Proposers who attempt to seek information or clarifications verbally will be directed to reduce their questions to writing in accordance with the terms of this RFP and state purchasing policy. No other form of communication is acceptable, and use of any other form of communication or any attempt to communicate with DODD staff or any other agency of the State to discuss this RFP may result in the Proposer being deemed ineligible.

PART FOUR: EVALUATION OF PROPOSALS

I. EVALUATION PROCESS

DODD’s evaluation process of responses submitted to this request may consist of up to four distinct phases:

1. DODD’s initial review of all proposals for timely submission;
2. An evaluation committee review of the proposals for defects and scoring;
3. DODD’s request for more information (clarifications, interviews, presentations, and/or demonstrations); and,
4. Negotiations or best offer requests.

At its sole discretion, DODD will determine whether phases three and/or four are necessary under this RFP, reserving for itself the ability to eliminate or add phases three or four at any time during the evaluation process. DODD may add or remove sub-phases to phases 2 through 4 at any time if DODD believes doing so will improve the evaluation process.

II. PROPOSAL EVALUATION CRITERIA

In the proposal evaluation phase, DODD staff or reviewers selected by DODD (the committee) will rate the proposals submitted in response to this RFP based on the following criteria and weight assigned to each criterion.

Evaluation Criteria	Weight
Bidder is attorney licensed to practice law in Ohio. Yes = proceed to evaluation criteria. No = proposal is rejected.	
Bidder demonstrates competence, knowledge, and qualifications as outlined in the technical proposal.	45
Bidder’s past performance on similar projects in Ohio or other states.	15
Hourly rate designated in the cost proposal.	30
Bidder’s proposal is consistent with the instructions in the RFP.	10
Total:	100 points

PART FIVE: CONTRACT AWARD

I. CONTRACTUAL REQUIREMENTS

Any contract(s) resulting from this issuance of this RFP are subject to the terms and conditions as provided in the personal services contract. The information contained in the RFP and in the proposal submitted by the selected contractor shall be considered part of the contract.

Payments for any and all services provided pursuant to the contract are contingent upon the availability of state and federal funds.

All aspects of the contract apply equally to work performed by any and all subcontractors.

The Contractor, and any subcontractor(s), will not use or disclose any information made available to them for any purpose other than to fulfill the contractual duties specified in the RFP. The Contractor, and any subcontractor(s), agrees to be bound by the same standards of confidentiality including federal and state statutory and regulatory requirements that apply to the employees of DODD and the State of Ohio.

Before a contract can be awarded, an Affirmative Action Program Verification Form must be completed using the Ohio Business Gateway Electronic filing website (<https://ohiobusinessgateway.ohio.gov>). Contractor must have an approved Affirmative Action plan recorded with the State of Ohio Department of Administrative Services.

II. CONTRACT AWARD PROCESS

It is DODD's intention to award one or more contracts under the scope of this RFP and as based on the RFP Calendar of Events schedule, so long as DODD determines that doing so is in the State's best interests and DODD has not otherwise changed the award date.

Any award decision by DODD under this RFP is final. After DODD makes its decision under this RFP, all Contractors will be notified (in writing or by phone, at DODD's discretion) of the final evaluation and determination as to their Proposals.

DODD will issue a notice of contract award to the selected Contractor(s), and finalized contract terms and conditions will be forwarded for signature. Contract will include RFP and attachments and the Contractor's accepted proposal. Once executed copies of the contract are submitted by the Contractor(s), and pending any further approvals that may be required (e.g., State Controlling Board), DODD will fully execute the contract.

Once the contract is fully executed, DODD will issue a purchase order (PO). DODD will issue to the Contractor(s) one (1) copy of the signed instrument and one (1) copy of the PO for its/their files.

Unless otherwise negotiated and included in the executed contract/scope of work, the selected contractor(s) shall be bound by all outlined services, policies and procedures as contained in the contractor's submitted and evaluated proposal.

Contractor may commence work upon receipt of a state issued purchase order.

The selected contractor(s) shall be compensated based on deliverables listed in the RFP. The personal services contract issued will further specify the timelines for completion of each deliverable and payment structure.

III. NUMBER OF AWARDS

DODD anticipates making at least one award depending on programs' needs and the fit of the Contractor(s) to the scope of this RFP.

IV. FUNDING APPROVAL THRESHOLD

In the event that contractual expenditures with the selected Contractor(s) will exceed \$50,000 in spending under any contract that results from this RFP, or that otherwise exceed \$50,000 in aggregate spending across all contracts between the contractor and DODD, the contract will be subject to the approval of the State of Ohio Controlling Board.

Appendix 1:

Executive Order 2019-12D

Governing the Expenditure of Public Funds for Offshore Services

No Contract Funds May be Spent Offshore

Executive Order 2019-12D “Governing the Expenditure of Public Funds for Offshore Services” prohibits the use of any public funds within the control of an executive agency to purchase services which will be performed outside of the United States. The Executive Order can be found at the following website:

<https://governor.ohio.gov/wps/portal/gov/governor/media/executive-orders/2019-12d>

To be considered by the DODD, a bid response must be accompanied by an Affirmation and Disclosure in the form attached to this RFP.

STANDARD AFFIRMATION AND DISCLOSURE FORM -EXECUTIVE ORDER 2019-12D
Governing the Expenditure of Public Funds on Offshore Services

By the signature affixed hereto, Contractor affirms, understands and will abide by the requirements of Executive Order 2019-12D. Both Contractor and any of its subcontractors shall perform no services under any contract with the Department of Developmental Disabilities outside of the United States.

The Contractor shall provide all the name(s) and location(s) where services under any contract with the Department of Developmental Disabilities will be performed in the spaces provided below or by attachment. Failure to provide this information may subject the Contractor to sanctions. If the Contractor will not be using subcontractors, indicate "Not Applicable" in the appropriate spaces.

1. Name/Principal location of Contractor:

(Name) (Address, City, State, Zip)

2. Name/Principal location of subcontractor(s):

(Name) (Address, City, State, Zip)

(Name) (Address, City, State, Zip)

3. Location(s) where services will be performed by Contractor or by subcontractors if different from principal location(s):

_____ (Address, City, State, Zip) _____ (Address, City, State, Zip)

4. Location where state data will be stored, accessed, tested, maintained or backed-up, by Contractor or subcontractors if different from principal location(s):

_____ (Address, City, State, Zip) _____ (Address, City, State, Zip)

Contractor affirms that Contractor and all subcontractors shall immediately disclose to the Department of Developmental Disabilities any change or shift in location of services performed by Contractor or subcontractors after execution of any Contract with the Department. On behalf of the Contractor, I am duly authorized to execute this Affirmation and Disclosure form and have read and understand that this form is a part of any Contract that Contractor may enter into with the Department and is incorporated therein.

By: _____
Contractor Signature **Printed Name and Title**

Date: _____

Appendix 2:

Contractor Information Form

The Contractor Information Form must be filled out and returned with a bid response.

CONTRACTOR INFORMATION FORM

THIS FORM MUST BE SUBMITTED WITH YOUR PROPOSAL

CONTRACTOR NAME: _____

STREET ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

AUTHORIZED CONTACT NAME: _____

PHONE NUMBER: _____ EMAIL: _____

1. Identify all of contracts currently with the State of Ohio (including DODD).

Total # of Contracts: _____

State Agency: _____ Amount: _____

Contracted Services: _____

Duration of Contract: _____

(Attach additional sheets if necessary.)

2. Provide current employee information on both a nationwide basis (including Ohio), and Ohio's based operations.

	<u>NATIONWIDE</u>	<u>OHIO</u>
Total # of Employees:	_____	_____
Percent of Women:	_____	_____
Percent of Minorities:	_____	_____

3. Provide OAKS Vendor ID or Tax Identification Number: _____

4. If your billing address is different than mailing address above, please provide below:

Contractor Name: _____

Street Address: _____

City: _____ State: _____ Zip Code: _____

Authorized Signature

Date