

New York State Department of Corrections and Community Supervision

RFP 2020-28 – Seized Drug Forensic Testing

Questions and Answers Posted November 23, 2020.

The following is official Questions and Answers which are hereby incorporated into IFB 2020-28 – Seized Drug Forensic Testing.

Question #	Corresponding IFB Section	Bidder's Question	Answer
1	Bidder Qualification – Pg. 8 Section 7	<p>“possesses all necessary required DEA controlled substance registration certificates and licenses from the New York State Department of Health, if applicable, and/or certification required from the appropriate out-of-state Health Department to perform the specified drug testing”</p> <p>Can DOCCS please confirm if NY State Dept of Health requires licensing for Forensic Analysts?</p>	A DEA license is required, but a NYS Department of Health license is not required at this time.
2	TAX LAW § 5-A – Pg. 10	Can DOCCS please confirm whether we need to register/file since our services are exempt?	Please see IFB 2020-28 pg. 10 Tax Law § 5-A.
3	MWBE/EEO – Pg. 12	<p>“The bidder will be required to submit a Minority and Women-owned Business Enterprise and Equal Employment Opportunity Policy Statement to DOCCS with its bid or proposal.</p> <p>If awarded a Contract, bidder shall submit a Workforce Utilization Report and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by DOCCS on a <b>quarterly</b> basis as required during the term of the Contract.”</p> <p>Can DOCCS confirm whether the reporting requirements are still applicable given the 0% goal?</p>	<p>Yes, the EEO-100 report is still applicable if the MWBE goals are 0%.</p> <p>The EEO-1 Workforce Utilization Report is also required on a quarterly basis for all Contractors and Subcontractors performing service within the State of NY during the contract term.</p>

4	Price -pg. 17	<p>“Contractor’s bid price shall be inclusive of all costs of providing testing, including but not be limited to mailers/shipping containers, labels, forms, security seals, labor, materials, shipping, parts, supplies, travel, training, training manuals/, licenses, insurance, administrative, profit, ancillary costs, transportation, handling and miscellaneous charges such as any applicable taxes or fees, supplies, mailing costs, and services not explicitly stated in these specifications, but necessarily attendant thereto. Note: Prices must be rounded to the nearest cent.”</p> <p>Can DOCCS confirm that travel related to Expert Services would not be reimbursable under the contract and should be included in the price for testimony?</p>	Yes. See Addendum 2 and Cost Sheet (pg. 33).
5	Professional Liability Errors and Omissions- pg. 24	Can DOCCS please clarify whether the limit \$2,000,000 professional liability insurance is per occurrence or in aggregate?	Not less than \$2,000,000 per occurrence – See addendum 2.
6	Equal Employment Opportunity Requirements – pg. 12	Is this section applicable for this IFB? IF yes, please provide an example Workforce Utilization Report. May the vendor submit this report yearly?	The Workforce Utilization Report is due to the Empire State Development on a quarterly basis and cannot be submitted yearly.
7	Scope of Services, Section I – pg. 29	Is it acceptable to have all result reports sent to one web portal for PDF report retrieval that can be accessed by all 52 sites?	DOCCS will work with the winning bidder to determine report retrieval system prior to the start. However, in theory a single secure web portal may be an acceptable means to transmit records. DOCCS would need additional information about the security of the web portal and other details about access and the functionality of the portal

8	Scope of Services, Section II – pg. 29	<p>1) Does NYC DOCCS require compliance with criminal procedure law article 245- Discovery for all cases?</p> <p>2) If yes, may the vendor configure the secure web portal such that result reports and discovery information is sent to one account accessible to authorized users for all 52 sites?</p>	<p>1) No, compliance with CPL Article 245 discovery requirements will only be required for criminal prosecutions.</p> <p>2) See response to # 7 above.</p>
9	Scope of Services, Section V – pg. 29	<p>“An open panel must be provided that allows for the confirmation of all unknown controlled substances in New York State (NYS Public Health Law section 3306), plus other designer and novel intoxicating drugs.”</p> <p>Our standard practice is to confirm the substance with the highest penalty or schedule in accordance with specific state’s legislation. Is it acceptable to proceed in this manner for these samples?</p>	<p>Yes, however, DOCCS may not need a weight for each tested substance. DOCCS will work with the winning laboratory to develop a submission form which identifies the scope of testing.</p>
10	Scope of Services, Section VI – pg. 29	<p>Given there are 52 sites and due to the uncertainty regarding the number of samples to be submitted per site, may the vendor return all the sample(s) in the shipment within 30 days of report issuance?</p>	<p>Yes, shipping substances back to DOCCS within 30 calendar days is acceptable. See Addendum 2.</p>
11	Scope of Services, Section VI – pg. 29	<p>The remaining substances not returned to DOCCS shall be disposed of by the laboratory in a manner consistent with applicable state and federal laws, unless other arrangements are made with the laboratory by DOCCS.</p> <p>Our standard practice for LEA is to return all samples.</p> <p>1) Would it be acceptable to return all samples (positive &amp; negative) to the prearranged DOCCS location?</p> <p>2) If so, would <i>it</i> be acceptable to return the samples to the prearranged location in one batch every 30 days?</p>	<p>1) Yes, it will be acceptable to return all samples (positive &amp; negative) to a prearranged DOCCS location.</p> <p>2) Yes, DOCCS will identify one or possibly two prearranged central locations for all return shipments of substances in one batch within 30 calendar days. See Addendum 2.</p>
12	Scope of Services, Section VI – pg. 29	<p>“Additional confirmation tests may be requested by DOCCS throughout the term of the agreement resulting from this IFB.”</p>	<p>No historical data is available.</p>

		Does DOCCS have any information or historical data on the anticipated amount or frequency of these “additional confirmation tests?”	
13	Scope of Services, Section VII – pg. 30	<p>a. The size of samples being submitted can vary significantly. May the vendor supply FedEx pre-paid labels that NY DOCCS can adhere to your own secured and sealed packaging that is currently used to submit your samples?</p> <p>b. Is NY DOCCS willing to package multiple samples that are properly sealed together in one shipment?</p> <p>c. Will the entire sample be sent for testing or only a portion of the sample?</p> <p>d. 1) While it is typical for vendors to pay for shipping, it is atypical to pay for the shipping containers. May this requirement be waived? This request is reflective of the high variability of sample sizes. 2) Alternatively, what is the largest sample size anticipated by NY DOCCS?</p> <p>e. Where are you currently submitting your samples and what is your current procedure?</p> <p>f. Can you please explain what supplies you would need included and sent within five (5) calendar days?</p>	<p>a. See Scope of Services VII and response to part d below. Yes, the vendor will supply prepaid labels.</p> <p>b. Yes, but all evidence will be separated.</p> <p>c. Entire sample, but there may be some exceptions.</p> <p>d. 1) No, DOCCS anticipates that an assortment of shipping boxes would be used. See Addendum 2 and Cost Sheet. 2) The largest sample size, for example, could be one pound of marihuana.</p> <p>e. This question is not relevant to the development of the proposal under this IFB.</p> <p>f. See IFB 2020-28 Scope of Services Section VII.</p>
14	Scope of Services, Section VIII – pg. 30	<p>a. What are the anticipated volumes for the seized drugs by classes that would be submitted? (ex. 25% Cocaine, 25% Marijuana, 10% Methamphetamine, 10% K2, Pharmaceutical, etc.)</p> <p>b. What are the anticipated volumes for the seized drugs by type that would be submitted? (ex. pills, plant material, paper, oils, etc.)</p> <p>c. 1) Does NY DOCCS anticipate sending any syringes for testing? 2) If yes, approximately how many per year?</p>	<p>a. Unknown.</p> <p>b. Unknown.</p> <p>c. 1) Yes. 2) Approximately 100 per year.</p>

		<p>d. On average, approximately how many samples will be submitted per case?</p> <p>e. Is a 45-day turnaround time acceptable?</p> <p>f. May the vendor utilize their network of ANAB accredited laboratories for testing?</p> <p>g. 1) Will the 3500+ estimated annual quantities be submitted at one time, or in monthly increments? 2) If monthly, what is the estimated monthly volume? 3) Is NY DOCC agreeable to a ramp up period of 100 exhibits per month in the beginning? 135 exhibits per month in Q2 2021 and 450 exhibits per month Q3 2021 and following?</p>	<p>d. Varies, but most cases will involve one sample.</p> <p>e. No.</p> <p>f. See IFB 2020-28 Qualification of Bidder (pg. 8) and Subcontracting (pg. 16).</p> <p>g. 1) No. 2) DOCCS may submit substances on a weekly or twice per week basis from any and up to all locations identified in Attachments 1 and 2 of IFB 2020-28, however, it is not anticipated that all 52 facilities will have submissions each week. 3)No, DOCCS is not agreeable to any ramp up period.</p>
15	Scope of Services, Section X – pg. 30	<p>a. “All laboratory reports showing confirmation positives must meet the accreditation standards set forth by ANAB section 7.8, including but not limited to the following: Describes how the chain of custody has been maintained for the substance tested;” The final report that is issued will contain the date of at Laboratory, the mode of delivery and airbill tracking number. Is this information acceptable to meet this requirement?</p> <p>b. “Identifies the tests that have been performed, makes a statement as to their reliability and accuracy, and that the result received represents scientifically reliable proof of the existence of the substance found in the substance tested; and certifies that the tests were performed by qualified personnel in accordance with manufacturer’s instructions, or such other statement</p>	<p>a. See IFB 2020-28 Scope of Services Sections IX and X.</p> <p>b. See IFB 2020-28 Scope of Services Sections IX and X.</p>

		<p>that would support submission of the laboratory report as a business record at a legal or administrative proceeding. This should include citations to judicial options upholding the liability of the testing procedure to be employed by the contractor,” and  “Contains a certification as required by NYS Criminal Procedure Law (CPL) section 190.30(2) from a qualified forensic scientist.”</p> <p>Can the state please provide an example of what is being requested?</p>	
16	Scope of Services, Section XI – pg. 31	<p>a. May we mutually agree on the subject matter that would be included with the tele-video training/remote hosted training?</p> <p>b. May this training be recorded such that new NY DOCCS personnel may view the recording?</p> <p>c. If the vendor is willing to provide general evidence handling guidelines, may the requirement to provide two (2) procedure manuals be waived? Typically, procedure manuals follow the agency’s guidelines specific format, required content and review process.</p> <p>d. How are you currently collecting and preparing substances, and is it possible to continue to utilize your current process</p>	<p>a. Yes; however, DOCCS will need to first approve the content of the training. See Addendum 2.</p> <p>b. Yes.</p> <p>c. No.</p> <p>d. This question is not relevant to the development of the proposal under this IFB.</p>
17	Scope of Services, Section XII – pg. 31	<p>a. 1) Would you please explain what is meant by computer-generated files with agreed upon data? Our practice is to supply a final report. 2) What data are required in addition to the final report and is it expected that the data will be required for every sample, or just on an as needed basis?</p> <p>b. Are PDFs an acceptable format?</p>	<p>a. See IFB 2020-28 Scope of Services section XII.</p> <p>b. Yes, but must be searchable as stated in IFB 2020-28 Scope of Services section XII.</p> <p>c. Yes.</p> <p>d. See response to #7 above.</p>

		<p>c. Are individuals at the NY DOCCS sites able to log into external secure sites?</p> <p>d. May the vendor deliver case specific information via a secure web portal?</p>	
18	Scope of Services, Section XII – pg. 31	<p>“Contractor agrees that it will use all appropriate safeguards to prevent any unauthorized use or unauthorized disclosure of confidential Information. Contractor agrees that it shall immediately report to DOCCS the discovery of any unauthorized use or unauthorized disclosure of such confidential information.” This language is consistent with page 42 section 7, but would DOCCS consider changing the phrase “immediately report” to; “as soon as practicable, but without undue delay?”</p>	a. No.
19	Cost sheet – Pg..32	<p>a. Is it accurate to state that the estimated annual quantity reflects samples (not cases)?</p> <p>b. 1-A is it acceptable for vendors to price this row for qualitative testing and weight of one sample? 1-C is for weights only, see question c.</p> <p>c. 1-B Please describe the substances that will need quantitative testing? Does NY DOCCS foresee any requests with the need to quantitate multiple substances in one sample? If yes, please define the frequency of such requests.</p> <p>d. 1-C Please confirm that these are weight only samples</p> <p>e. 2-A Is it acceptable for vendors to price this row for qualitative testing and weight of one sample?</p> <p>f. 2-B Does NYC DOCCS require the successful vendor to be able quantitate THC in edibles? For THC quantitation does NYC DOCCS require an exact number or is utilization of a 1% threshold by weight acceptable?</p>	<p>a. The estimated annual quantity reflects number of tests.</p> <p>b. Yes.</p> <p>c. Marihuana will require a quantitative analysis. Other substances will only need a quantitative analysis when required by Article 220 of the NY Penal Law for substances enumerated in NY Public Health Law section 3306.</p> <p>d. Yes.</p> <p>e. Yes.</p> <p>f. Yes, but it will be indicated by DOCCS on the submission form; over 1% for marihuana is acceptable; DOCCS is currently not seeing edibles of any noteworthy quantity.</p> <p>g. Yes, greater than 1% is acceptable.</p>

		<p>g. 2-B Would a differentiation testing procedure be acceptable for plant material and liquids that would be able to identify and confirm an unknown item with concentration of THC greater than 1.0% by weight?</p> <p>1. For example, testing results for plant material would indicate “Marihuana/Marijuana confirmed with a Total Delta-9 THC <math>\geq</math> 1.00% by weight.”</p> <p>h. 2-C Please confirm that these are weight only samples.</p> <p>i. 3-A Due to the current pandemic, is NY DOCCS open to video testimony?</p> <p>j. 3-A May vendors invoice actual testimony travel costs?</p>	<p>h. Yes.</p> <p>i. No, at this time, video testimony is not an option for DOCCS administrative hearings (telephonic) or in-person testimony.</p> <p>j. No see response to question 4.</p>
20	NDA – pg. 42	Can DOCCS please confirm if the bidder needs to identify specific individuals in Line 1 of Nondisclosure Agreement?	Identifying a list of titles is acceptable.
21	NDA, Section 12 - pg. 43	<p>“The recipient shall return or destroy all DOCCS confidential information.”</p> <p>Would DOCCS consider allowing the alternative language to this section so that the Contractor could maintain one copy under the duty of confidentiality for regulatory and auditing purposes?</p>	If vendor can produce a Legal Standard, DOCCS can consider it.
22	Appendix A – pg. 50	Does sections 23 of Appendix A apply to this contract?	No, this is not a contract for consulting services.
23	Appendix B-pg. 62	Please clarify whether POs will be issued for each test?	No, monthly billing is anticipated.
24	Appendix B-pg. 62	Please confirm that a Bid Bond will not be required?	A Bid Bond is not required for this procurement.
25	Appendix B, Section 68 - pg. 66	States: “SECURITY Contractor warrants, covenants and represents that it will comply fully with all security procedures of the Authorized User(s) in performance of the Contract including but not limited to physical, facility, documentary and cyber security rules, procedures and protocols.”	Bidders can find DOCCS directives at; <a href="https://doccs.ny.gov/laws-rules-directives-listing">https://doccs.ny.gov/laws-rules-directives-listing</a>



		Can DOCCS please provide copies of these rules, procedures, and protocols referenced in this section in order for bidders to be able to determine their ability to comply.	
26	General	We are a respected ISO 17025:2017 accredited forensic laboratory but are accredited by the American Association for Laboratory Accreditation (A2LA) rather than ANAB. The solicitation states ANAB accreditation in several areas. Before bidding, I would like to ensure that our accreditation will meet the bid requirements	No, your accreditation will not meet the bid requirements. The bid requirement of ANAB accreditation remains as stated in the IFB.

All other terms and conditions remain the same.

Please sign and return this Questions and Answers with your bid verifying receipt and that you acknowledge and accept these changes of the IFB.

**“Accepted and Agreed To”:**

\_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ Signature  
Name Title Date

**Applicants should monitor** the following Web sites for posted updates or information:

NYS Contract Reporter: <http://www.nyscr.ny.gov>

NYS DOCCS’ Web site: <https://doccs.ny.gov/procurement-opportunities>