

New York State Department of Health
Independent Evaluation of the New York State (NYS) Health and Recovery Plans (HARP) Program and
Self-Directed Care (SDC) Pilot Program
RFP # 20024
Questions and Answers
March 13, 2019

Question #	Corresponding RFP Section	Bidder's Question	Answer
1	1.0, Page 3	What is the expected date for the grantee announcement?	June 2019 is the anticipated timing for the announcement of the awardee and August 1, 2019 is the anticipated contract start date.
2	2.3, Page 5	Can the State please confirm that bidders should only submit a budget for the 14-month base period and not submit a budget for any potential option period?	Yes, bidders should only submit a budget for a contract term of 14 months.
3	3.1, Page 5 and 6.1, Page 59	In addition to my other roles (including having a role with the OMH funded [initiative]) I am a (vendor) adjunct staff member and wondered whether it was possible and appropriate to be part of a (vendor) team that is considering submitting a proposal.	The only explicit conflicts of interest that would prevent an entity from bidding are listed in the RFP, Section 3.1, Minimum Qualifications. All other types of conflicts of interest should be addressed in Attachment 4, "Vendor's Assurance of No Conflict of Interest or Detrimental Effect," of the bidder's Administrative Proposal. This attestation provides the opportunity to disclose any potential perceived conflicts of interest and demonstrates how these will be mitigated. Attestations will be reviewed by DOH on a case by case basis.
4	4.1, Page 11	What data sources are available for social indicators referenced in the Difference in Difference Design (DD) section?	The BH HCBS Eligibility Assessment contains social indicators. However, this will not be available for the non-HARP comparison group and thus for DD analysis.
5	4.1, Page 12	What data sources are available for social indicators referenced in the Longitudinal Mixed Effect Regression Method section?	The BH HCBS Eligibility Assessment contains social indicators and can be used to measure change over time for HARP members.

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6	4.1, Page 14	The HARP evaluation describes qualitative methods, but does not appear to list any qualitative data sources for addressing the research questions. Are supplementary data collection efforts expected?	As per the RFP, minimum stakeholders for inclusion in the qualitative data collection include HARP enrollees, HARP managed care administrators, and HCBS service providers. Qualitative methods will include key informant interviews, focus groups, and surveys. The Contractor will need a strategy for identifying a range of stakeholders to target for in-depth interviews and focus groups.
7	4.1, Page 14 and Attachment B	The HARP design tables for Goals 1 through 3 do not specify in which goals the qualitative data collected would be used to help answer research questions. While we can identify that in our proposal, we were wondering in which Goal/Milestones the State would prefer us to budget qualitative data collection for the HARP evaluation? For example, would it be okay to simply budget this data collection in Goal 1 if we document we did so in our proposal?	The HARP qualitative methods are described on page 14 of the RFP. The section states that the Contractor will develop [research tools] to "address the questions under each objective." Therefore, it is understood that findings from the qualitative study will be included in Goals 1 through 3. Thus, the Cost Proposal should reflect qualitative objectives and activities throughout Goals 1 through 3 and not just lumped under one (1) Goal.
8	4.1, Page 23 and 27	Does DOH have a method for attributing costs to managed care encounter claims for the cost analysis component of the HARP evaluation?	Managed Care Plans submit Medicare Managed Care Paid Amount on the claim line and header level encounter records. There are also several methods of standardizing encounter costs based on median pricing based on actual paid amounts or standardized pricing tables.
9	4.1, Page 35	What data sources are available for social indicators referenced in the Longitudinal Mixed Effect Regression Method section?	The BH HCBS Eligibility Assessment (also known as the CMH Screen) contains social indicators and can be used to measure change over time for both SDC participants and HARP-enrolled, HCBS-eligible comparison group members.
10	4.1, Page 35	What data sources are available for social indicators referenced in the Difference in Difference Design (DD) section?	The BH HCBS Eligibility Assessment (also known as the CMH Screen) contains social indicators and can be used to measure change over time for both SDC participants and HARP-enrolled, HCBS-eligible comparison group members.

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11	4.1, Page 37	For the qualitative components of the SDC evaluation, will the contractor identify participants or will lists and contact information be provided by DOH?	Bidders should develop a method to facilitate qualitative data collection from the stakeholders identified in the RFP. OMH will facilitate communication between the Contractor and SDC Pilot site agencies and other SDC stakeholders. The Contractor will work with the SDC sites to identify and recruit SDC participants, staff, and other stakeholders to conduct the focus groups and interviews.
12	4.1, Page 46	Please confirm if all the data from the ONTrackNY Data System are available in an electronic format for retrieval and analysis by the Contractor and will not require onsite chart review or data retrieval from original forms.	ONTrackNY data can be extracted in an electronic format and made available to the Contractor. No onsite chart review or data retrieval from original forms is required.
13	4.1, Page 46	<p>The RFP states: <i>“Team-level information such as staffing, functioning, and caseload is collected via a quarterly program components form.”</i></p> <p>Please describe the format that data in the “program components form” will be provided to the Contractor.</p>	The data will be in tabular form.
14	4.1, Page 46	<p>The RFP states: <i>“The OMH maintains a database containing information on providers who applied to provide BH HCBS. The database contains provider contact information, provider location, specific service(s) provided, staff qualifications, and funding information. The OMH also will collect from MMC plans a list of BH HCBS providers that plans have contracted with.”</i></p> <p>Please describe the database structure for the Provider Network data that will be available to the Contractor.</p>	<p>The data on providers who applied to provide BH HCBS are stored in Oracle tables.</p> <p>The lists that OMH obtains from plans with information on BH HCBS providers contracted with are in Excel spreadsheets. Tables have provider contact information, location, and service provided.</p>
15	4.1, Page 46	Please confirm the Consumer Assessment of Healthcare Providers and Systems (CAHPS®) will be administered by the EQRO and individual level data made available to the Contractor in a file format for analysis.	The CAHPS will be administered by the EQRO. Individual level data will not be made available as per page 22, paragraph 2 of the RFP. The Contractor will receive an Excel or PDF file with results at the plan level.

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16	4.1, Page 47	Please confirm the Community Mental Health Assessment (CMHA) data collected by OMH will be available to Contractor in an electronic file format for analysis and will not require onsite chart review or data retrieval through abstraction from original forms.	The CMHA data will be available in an electronic file format and will not require onsite chart review or data retrieval through abstraction from original forms.
17	4.1, Page 47	Please confirm HEDIS data submitted to DOH reflects results using HEDIS certified software.	MMC plans, HARPs, and HIV SNPs are responsible for submitting results through a process that includes the use of HEDIS-certified software.
18	4.1, Page 47	Please confirm HEDIS data submitted to DOH is available to the Contractor in a file format with individual level data and will not require the Contractor to utilize HEDIS software for analysis.	DOH will provide access to HEDIS measures at the individual level where available. The Contractor will not need to use HEDIS software vendors to go into medical records or collect data administratively from providers.
19	4.1, Page 47	Please confirm the HARP Perception of Care (HARP PCS) survey individual level data will be made available to the Contractor in a file format for analysis.	The individual level HARP PCS data will be made available to the Contractor in a file format for analysis.
20	4.1, Page 48	Please confirm the HARP Perception of Care (HARP PCS) survey individual level data will be made available to the Contractor in a file format for analysis.	The individual level HARP PCS data will be made available to the Contractor in a file format for analysis.
21	4.1, Page 48	<p>The RFP states: <i>"NYS OMH Psychiatric Center Records: The OMH maintains the MHARS for episodes of inpatient, residential, and outpatient care in NYS Psychiatric Centers."</i></p> <p>Please confirm the NYS OMH Psychiatric Center Records referenced in the above statement are in a file format for analysis and will not require onsite chart review or data retrieval through abstraction from original forms.</p>	The MHARS data will be provided in a file format for analysis to the Contractor. No onsite chart review or data retrieval through abstraction from original forms is required.
22	4.1, Page 48	The RFP states: <i>"For those data sources identified above that are not housed on intranet network drives (i.e., Medicaid Data Warehouse and NYSoH Enrollment data), the Contractor will be granted user rights to access the systems for this evaluation... The Department will provide the Contractor with a Virtual Private Network (VPN)</i>	The Contractor is not precluded from retrieving the data, maintaining, and analyzing files on their own system. However, further information is required related to the security controls that would protect the environment. The information would differ depending on the complexity of the vendor's

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		<p><i>connection, privileges, and login ID(s) that provide secure access to the appropriate NYS Medicaid systems and data, to perform the scope of work under this agreement."</i></p> <p>As there are significant analyses that will require statistics software, does the statement above preclude the Contractor from retrieving the data (following the appropriate data security protocols), maintaining, and analyzing data files on the Contractor's own system?</p>	<p>technical environment, the type of data involved, the number of records, and the length of time that the vendor would retain it.</p> <p>DOH requires that vendors providing computer and application services to NYS comply with the Health Insurance Portability and Accountability Act (HIPAA) Omnibus Final Rule and all other applicable NYS and federal laws, regulations, policies, and standards for all systems, that transfer, process, or store DOH data. DOH verifies this through review of evidence and artifacts that demonstrates vendor compliance with these laws, regulations, policies, and standards. DOH security standards are based on, and are consistent with, the security provisions described in CMS ARS/NIST 800-53 r4 at the Moderate level.</p> <p>Vendors submit Plans of Actions and Milestones (POA&M) to DOH that address all identified security control gaps. Deficient controls are prioritized and addressed according with federal and NYS policies and standards. All weaknesses listed in the POA&M must include target remediation dates, an assessment of risk, and identify compensating controls for identified gaps.</p> <p>If the vendor does not adequately demonstrate compliance with required laws, regulations, policies, and standards, DOH reserves the right to require the vendor to retain, at the vendor's expense, a third-party firm to perform additional security assessments.</p>

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23	4.1, Page 48	<p>The RFP states: <i>“Given public health law and/or DUAs that govern access to these data, bidders for the Independent Evaluation should be aware that obtaining access will require substantial time and effort, which should be considered when developing the evaluation timeline.”</i></p> <p>Since the Anticipated Contract Start Date is August 1, 2019, and runs for a period of 14 months, will NYSDOH permit the evaluation timeline to extend beyond 14 months and into the additional 12-month period to safeguard against time and effort for accessing data? If not, would NYSDOH consider extending the initial contract agreement period beyond 14 months?</p>	At the discretion of DOH, the contract may be extended for up to one (1) additional 12-month period.
24	4.1, Page 48	<p>Please describe the database management system (e.g., database platform, operating system, other support applications) utilized for each of the data sources below:</p> <ul style="list-style-type: none"> - Medicaid Choice Enrollment Data - Medicaid Claims and Encounters: Medicaid Data Warehouse - SDC Enrollment Data 	<p>Medicaid Choice Enrollment Data NY is run by New York State’s enrollment broker, New York Medicaid Choice. The Contractor will receive a file from the vendor with the information. The data will not be in the database platform itself.</p> <p>For Medicaid claims and encounters, the Medicaid Data Warehouse’s database platform is Oracle and the operating system is Linux.</p> <p>SDC Enrollment Data are collected in an OMH dedicated web-based application. OMH will provide data files to the Contractor extracted from the application data.</p>
25	4.1, Qualitative Methods	Will the State facilitate contacts between the contractor and HARP and SDC sites chosen for qualitative data collection?	The Contractor should develop a method to facilitate qualitative data collection from the stakeholders identified in the RFP. DOH and OMH will facilitate communication between the Contractor and the appropriate stakeholders to facilitate data collection through interviews, focus groups, and surveys.

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26	4.1, Page 48	The RFP notes that it may take a substantial amount of time for the contractor to be approved for access to data. Given that there are only 10 months between the earliest possible start date and the due date for the draft report, can you provide a more precise estimate of the amount of time this will take?	The selected bidder should begin the process of accessing data shortly after the contract is finalized. Providing that the selected bidder (contractor) has sufficiently completed all the necessary steps described in the RFP related to data access and security, the Department will authorize users and provision accounts within 30 calendar days of request.
27	4.1, Page 48	What guidance can the State provide regarding how much time should be allowed to access the data and the NYS data warehouse and other data sources, given the DUAs and laws governing access to the data?	The selected bidder should begin the process of accessing data shortly after the contract is finalized. Providing that the selected bidder (contractor) has sufficiently completed all the necessary steps described in the RFP related to data access and security, the Department will authorize users and provision accounts within 30 calendar days of request.
28	4.1, Page 48	Given concerns about the time required to gain access to the data, can DoH clarify expectations regarding the total project timeline?	The Contractor is expected to complete the scope of work in the contract according to the due dates provided in the RFP.
29	4.2, Page 48	<p>The RFP states: <i>"The Contractor is required to have a full-time (30 hours per week or greater) project manager for both of the two (2) evaluations who will assure effective communication and coordination of the Independent Evaluation projects, including integrity of all products and integrating information from all aspects of the evaluation throughout the course of the contract period."</i></p> <p>Please clarify whether the Contractor is required to (a) have one full-time (30 hours per week or greater) project manager for the HARP evaluation <u>and</u> an additional full-time (30 hours per week or greater) project manager for the SDC evaluation or (b) to have one (1) full-time (30 hours per week or greater) project manager across <u>both</u> the HARP and SDC evaluations?</p>	The Contractor is required to have one (1) full-time (30 hours per week or greater) project manager across both the HARP Program and SDC Pilot Program evaluations.

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30	4.2, Page 48	The RFP states that the contractor is required to "have a full-time (30 hours per week or greater) project manager for both of the two (2) evaluations." Can you please clarify whether this means that one project manager is required for up to 30 hours per week for both evaluations or, rather, does this mean the State would prefer a project manager for each of the evaluations?	The Contractor is required to have one (1) full-time (30 hours per week or greater) project manager across both the HARP Program and SDC Pilot Program evaluations.
31	4.2, Page 48	The RFP states: <i>"The Contractor is also required to have a technical writer who will assure that all written products are professionally prepared, clear, accurate, and meaningful."</i> Please indicate if there are any expected qualifications and experience for the technical writer required for staffing.	The state is relying on the expertise of the bidders to make this determination.
32	4.3, Page 49	The RFP states that the final evaluation reports are due to NYSDOH for CMS on September 1, 2020, which is 13 months following the August 1, 2019, anticipated start date. Please clarify the role of the Contractor during an additional 12-month period if the final evaluations are due to CMS on September 1, 2020.	DOH will consider extending the contract if CMS requests revisions to the final Evaluation Report(s) at the end of the 14-month contract period.
33	4.3, Page 49	The RFP indicates that the final evaluation reports are due to NYSDOH for CMS on September 1, 2020, which is 13 months following the August 1, 2019, anticipated start date. Please confirm whether the September 1, 2020, due date is firm or flexible.	The September 1, 2020 due date is firm.
34	4.3, Page 49	With the final version of the evaluation report due on September 1, 2020, can the State confirm that the anticipated period of performance is August 1, 2019 through September 30, 2020?	Yes, that is correct.
35	5.6, Page 52	Section 5.6 of the RFP, "Minority & Woman-Owned Business Enterprise Requirements" contemplates the payment of liquidated damages if Contractor has failed to comply with MWBE participation goals set forth in the Contract. Would the Contractor be required to pay	No.

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		liquidated damages if it has sought and received a waiver of these provisions?	
36	6.1, Page 59	<p>The RFP states: <i>The Bidder must clearly and specifically identify any portion of the proposal that a Bidder believes constitutes proprietary information entitled to confidential handling as an exception to the Freedom of Information Law.</i></p> <p>How would the State like the Bidder to submit redactions? Is there a particular format that the State prefers?</p>	<p>Bidders should not redact any portion of their proposal but should clearly and specifically identify, as part of the Administrative Proposal, the portions of their proposal they believe constitutes proprietary information.</p> <p>For example, the Administrative Proposal may include a document labeled "Freedom of Information Law – Proposal Redactions" that includes references to page numbers, paragraphs, and sentences in the proposal that the bidder believes constitutes proprietary information. Please also refer to RFP Section 5.12, Freedom of Information Law ("FOIL").</p>
37	6.1 H, Page 60	<p>The RFP states: <i>"Provide references using Attachment 9, (References) for three (3) clients that you performed program evaluations for. Provide firm names, addresses, contact names, telephone numbers, email addresses and a brief description of the evaluation you performed."</i></p> <p>Please indicate if all three references must represent work of the prime Contractor or if it is acceptable for one or more references to represent work of a subcontractor.</p>	The references should represent work of the bidder.
38	6.2 C, Page 61	<p>The RFP states: <i>"NYSDOH will accept proposals from organizations with the following types and levels of experience as a prime Contractor..."</i></p> <p>Please clarify if this statement means (a) unless an organization was a prime Contractor, the organization may not be considered qualified to respond to this RFP as a prime Contractor or participate as a subcontractor or,</p>	The bidder must have had the types and levels of experience listed in Section 3.1 and 6.2 C as a prime contractor.

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		(b) organizations with the required level of experience should be listed in the response as the prime Contractor.	
39	6.2 D4, Page 62	The RFP provides the goals, hypothesis and quantitative and qualitative methods of the program evaluation in section 4.1. For the proposed approach described in D4 (p. 62), is the state looking for additional research design and plans beyond those described in the RFP?	The evaluation design reflected in the scope of work does not need to be added to, but the Technical Proposal should be reflective of the bidder's proposed approach/plan to evaluate the programs and should address all items requested in Section D4.
40	6.2 D5, Page 62	The RFP states that the staffing plan should include a "job description for each position proposed, detailing the qualifications for the position." Does the State have a preference on the length of the job descriptions included with the proposal? Would, for example, one page per job description be sufficient if all necessary details were included? And, could the job descriptions be included as appendix material?	There are no page limits for the technical proposal. Job descriptions may be included as appendix material.
41	6.2 D5, Page 62 and Attachment B	The RFP states that bidders should include "projected hours per week and estimated hours to be dedicated to each major task of this project" for each job description we provide. Because the budget is organized by milestones and not tasks, would it be acceptable to the State if we present hours per week and estimated hours dedicated to each <i>milestone</i> ?	The technical and cost proposals are reviewed separately by the State (e.g., the Technical Evaluation Committee does not review Cost Proposals). For the Technical Proposal, bidders should determine the best way to present projected hours per week and estimated hours to be dedicated to each major task of the project. For the Cost Proposal, bidders should not present the number of staff hours; rather, the price per milestone should be reflective of all costs to complete the milestone.
42	Attachments	Is the State willing to provide the Attachments as a Word version?	Attachments A-D have been made available in Microsoft Word and have been posted on the RFP web site. Attachments E and F cannot be made available in Microsoft Word on the RFP web site.

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43	Attachment 8	Can the State confirm that the DOH Agreement is not required to be submitted within the Administrative Proposal and will be requested upon an award?	The DOH Agreement is not required to be submitted within the Administrative Proposal.
44	Attachment 8	Will the State consider limiting liability on this contract?	No, DOH will not consider limiting liability on this contract.
45	Attachment 8	Is the State willing to negotiate the terms and conditions of the contract?	Bidders are required to certify that they accept the contract terms and conditions as set forth in the RFP. DOH reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all terms and conditions as set forth in the RFP without modification should DOH determine that constitutes the best interests of New York State.
46	Attachment 8	<p>Is the Department willing to add a limitation of liability provision to New York State Department of Health Contract that would include language substantially similar to following?</p> <p>“A. The aggregate liability of Contractor, its Affiliates and any officer, director or employee of Contractor and its Affiliates (“Contractor Parties”) to the State, its officers, directors or employees any third party (including any benefit plan, its fiduciaries or any plan sponsor) for any and all Losses arising out of or relating to the provision of any Services at any time by any of the Contractor Parties shall not exceed one times the compensation for the Services giving rise to such Loss. Contractor shall have no liability for the acts or omissions of any third party (other than its subcontractors). For purposes of this Agreement “Loss” means damages, claims, liabilities, losses, awards, judgments, penalties,</p>	No, DOH will not consider adding a limitation of liability provision to the contract.

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		third party claims, interest, costs and expenses, including reasonable attorneys' fees, whether arising under any legal theory including, but not limited to claims sounding in tort (such as for negligence, misrepresentation or otherwise), contract (whether express or implied), by statute, or otherwise, claims seeking any kind of damages and claims seeking to apply any standard of liability such as negligence, statutory violation or otherwise."	
47	Attachment 8	<p>Is the Department willing to add language to New York State Department of Health Contract that is substantially similar to following?</p> <p>"In no event shall Contractor be liable in connection with the Contract for loss of profits or any indirect, incidental, punitive, special or consequential damages arising in any manner from the Contract regardless of foreseeability thereof."</p>	No, DOH will not consider adding this language to the contract.
48	Attachment 8, Page 16	Is the Department willing to add language to Article III "Term and Termination" of the New York State Department of Health Contract to include a 30 day cure period to the termination for cause provision prior to any termination of the Contract?	Bidders are required to certify that they accept the contract terms and conditions as set forth in the RFP. DOH reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all terms and conditions as set forth in the RFP without modification should DOH determine that constitutes the best interests of New York State.
49	Attachment 8, Page 16	Is the Department willing to add language to Article III "Term and Termination" of the New York State Department of Health Contract to include a termination for cause right for Contractor upon an uncured material breach of the Contract by the Department?	Bidders are required to certify that they accept the contract terms and conditions as set forth in the RFP. DOH reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State.

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			Nonetheless, bidders must be fully prepared to accept all terms and conditions as set forth in the RFP without modification should DOH determine that constitutes the best interests of New York State.
50	Attachment 8, Page 18	Article IV. "Contract Insurance Requirements" B.3 of the New York State Department of Health Contract includes language requiring that Contractor deliver certified copies of its insurance policies to the Department if required by the Department. Contractor considers its insurance policies to be proprietary and confidential. Is the Department willing to delete this requirement?	No, DOH will not consider deleting this requirement.
51	Attachment 8, Page 18-20	Article IV. "Contract Insurance Requirements" B.3 and B.6 of the New York State Department of Health Contract includes language requiring that Contractor disclose any deductible and aggregate limit on its Certificate of Insurance. Contractor considers such information to be proprietary and confidential. Is the Department willing to delete this requirement?	No, DOH will not consider deleting this requirement.
52	Attachment 8, Page 20	The Department's required insurance coverage and limits set forth in Article IV. "Contract Insurance Requirements" Section C "Specific Coverages and Limits" of the New York State Department of Health Contract do not quite match up to Contractor's coverage. Is the Department willing to discuss minor changes to this Section following award?	No, DOH will not consider minor changes to this section of the contract.
53	Attachment 8, Page 28	<p>Is the Department willing to revise Article IX. "General Specifications," Section E(2) "Ownership Clauses" of the New York State Department of Health Contract as follows?</p> <p><u>"Any publishable or otherwise reproducible material prepared by Contractor specifically and exclusively for the Department developed under or in the course of performing this pursuant to the Contract, dealing with</u></p>	Bidders are required to certify that they accept the contract terms and conditions as set forth in the RFP. DOH reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all terms and conditions as set forth in the RFP without modification should DOH determine

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		<p>any aspect of performance under this Contract, or of the results and accomplishments attained in such performance, shall be the sole and exclusive property of the DEPARTMENT, and shall not be published or otherwise disseminated by the CONTRACTOR to any other party unless prior written approval is secured from the DEPARTMENT or under circumstances as indicated in paragraph 1 above. Any and all net proceeds obtained by the CONTRACTOR resulting from any such publication shall belong to and be paid over to the DEPARTMENT. The DEPARTMENT shall have a perpetual royalty-free, non-exclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, any such material for governmental purposes <u>but shall not be given to or shared with anyone else, or used for any purpose, other than as contemplated by the Contract or as required by law. Contractor shall retain all of its rights in its own intellectual capital (such as methodologies, know how, models, tools, and any graphic or digitized representation of any of these) now possessed, or developed or acquired by Contractor during or after, the performance of the Services the same shall not be considered work product.</u></p>	<p>that constitutes the best interests of New York State.</p>
54	Attachment 8, Page 29	<p>Is the Department willing to include the following provision in Article IX. "General Specifications," Section F "Confidentiality Clause" of the New York State Department of Health Contract?</p> <p>"CONTRACTOR shall be permitted to retain copies of Confidential Information in accordance with its legal, disaster recovery and records retention requirements, but subject to its confidentiality obligations under the Contract."</p>	<p>Bidders are required to certify that they accept the contract terms and conditions as set forth in the RFP. DOH reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all terms and conditions as set forth in the RFP without modification should DOH determine that constitutes the best interests of New York State.</p>

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55	Attachment 8, Page 29	<p>Is the Department willing to revise Article IX. "General Specifications," Section F "Confidentiality Clause" of the New York State Department of Health Contract as follows in order to make confidentiality obligations reciprocal?</p> <p><u>"The Each of the Parties CONTRACTOR, its and their respective officers, agents and employees and subcontractors shall treat all information, which is obtained by it through its performance under this CONTRACT, as confidential information to the extent required by the laws and regulations of the United States and laws and regulations of the State of New York."</u></p>	No, DOH will not consider revising this section of the contract.
56	Attachment 8, Page 34	<p>Is the Department willing to revise Article IX. "General Specifications," Section O. "Provisions Related to New York State Information Security Breach and Notification Act," as follows?</p> <p><u>"In connection with the performance of the Services under this Contract, CONTRACTOR shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208). CONTRACTOR shall be liable for the costs associated with such breach if to the extent caused by CONTRACTOR'S negligent or willful acts or omissions, or the negligent or willful acts or omissions of CONTRACTOR'S agents, officers, employees or subcontractors, except to the extent such actions were undertaken at the express written direction of the State."</u></p>	No, DOH will not consider revising this section of the contract.
57	Attachment 8	Is the Department willing to add a severability provision to the New York State Department of Health Contract that would include language substantially similar to following?	No, DOH will not consider adding this provision to the contract.

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		<p>"It is the intent of the parties that the provisions of this Agreement shall be enforced to the fullest extent permitted by applicable law. To the extent that the terms set forth in this Agreement or any word, phrase, clause or sentence is found to be illegal or unenforceable for any reason, such word, phrase, clause or sentence shall be modified, deleted or interpreted in such a manner so as to afford the party for whose benefit it was intended the fullest benefit commensurate with making this Agreement as modified, enforceable and the balance of this Agreement shall not be affected thereby, the balance being construed as severable and independent."</p>	
58	Attachment 8	<p>Is the Department willing to add a no third party beneficiaries provision to the New York State Department of Health Contract that would include language substantially similar to the following?</p> <p>"Neither this Agreement nor the provision of the Services is intended to confer any right or benefit on any third party, other than the Affiliates of each Party that execute a SOW, and, in such event, solely as set forth in such SOW and this Agreement. The provision of Services under this Agreement cannot reasonably be relied upon by any third party."</p>	<p>Bidders are required to certify that they accept the contract terms and conditions as set forth in the RFP. DOH reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all terms and conditions as set forth in the RFP without modification should DOH determine that constitutes the best interests of New York State.</p>
59	Attachment 8	<p>Is the Department willing to add a jury trial waiver provision to the New York State Department of Health Contract that would include language substantially similar to the following?</p> <p>"IN THE EVENT OF A DISPUTE BETWEEN US ARISING OUT OF OR RELATING TO THIS AGREEMENT, WE EACH AGREE TO WAIVE AND NOT DEMAND A TRIAL BY JURY."</p>	<p>No, DOH will not consider adding this provision to the contract.</p>
60	Attachment 8, Page 40	<p>The Department's required Technology Terms and Conditions set forth in Appendix F of the New York State</p>	<p>Bidders are required to certify that they accept the contract terms and conditions as set forth in the</p>

Question #	Corresponding RFP Section	Bidder's Question	Answer
		<p>Department of Health Contract do not quite match up to Contractor's information technology standards. Is the Department willing to discuss minor changes to this Appendix following award?</p>	<p>RFP. DOH reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all terms and conditions as set forth in the RFP without modification should DOH determine that constitutes the best interests of New York State.</p>
61	Attachment 8, Page 49	<p>Is the Department willing to modify this section to read as follows:</p> <p>"Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Program available to Covered Program to the extent such release does not jeopardize the integrity of Business Associate's data privacy and security practices, or to the Secretary of the federal Department of Health and Human Services, in a time and manner designated by Covered Program or the Secretary, for purposes of the Secretary determining Covered Program's compliance with HIPAA, HITECH and 45 CFR Parts 160 and 164."</p>	<p>No, DOH will not consider modifying this section of the contract.</p>
62	Attachment 8, Page 50	<p>Is the Department willing to modify this section to read as follows:</p> <p>"In the event that returning or destroying the Protected Health Information is infeasible, Business Associate shall extend the protections of this Appendix H to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible,</p>	<p>No, DOH will not consider modifying this section of the contract.</p>

Question #	Corresponding RFP Section	Bidder's Question	Answer
		for so long as Business Associate maintains such Protected Health Information.”	
63	Attachment 8, Page 50	<p>Is the Department willing to add a provision to Article IV Section C substantially similar to the following?</p> <p>“Notwithstanding these or any other data retention, destruction or return provisions elsewhere in this Agreement, Business Associate may, in accordance with legal, disaster recovery and records retention requirements, store copies of Covered Entity’s data in an archival format (e.g. tape backups) or in non-archival backups on secure network drives, which may not be returned or destroyed upon request of Covered Entity. Such copies are subject to the obligations as set forth in this Agreement.”</p>	No, DOH will not consider adding this provision to the contract.
64	Attachment 8, Page 51	<p>Is the Department willing to modify this section to read as follows:</p> <p>“Interpretation. Any ambiguity in this Appendix H shall be resolved in favor of a meaning that permits both parties to comply with HIPAA, HITECH and 45 CFR Parts 160 and 164.”</p>	Bidders are required to certify that they accept the contract terms and conditions as set forth in the RFP. DOH reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all terms and conditions as set forth in the RFP without modification should DOH determine that constitutes the best interests of New York State.