

**New York State Department of Health
RFP #18695 for HCRA and HFCAP Performance Audits and Compliance Activities**

Questions and Answers Posted 3/12/2021

Question #	Corresponding RFP Section	Question	Answer
1.	4.1.B.I (Page 8 of RFP)	Field audits – for the duration of the pandemic, would it be acceptable to perform field audits remotely where possible, to reduce exposure risks to auditees and auditors?	Yes.
2.	4.1.B.II (Page 8 of RFP)	Contractor will identify highest risk and target educational and audit efforts. Are the audits resulting from this section that same audits noted Section 1? Or, if these are additional audits, please provide more detail on the volume and scope of these audits.	Yes.
3.	4.1.B.II (Page 8 of RFP)	HCRA Compliance Activities – please provide an estimated number of hours historically spent on compliance activities.	This is a new activity that was not included in previous contracts.
4.	Section 2.0 Overview (Page 4 of RFP) Attachment E- HCRA Performance Audits	<p>Given that it is the Department's intention to award one (1) contract from this procurement, and that the selected vendor will be expected to audit any of the approximately 50,000 payors and TPAs and 1,000 providers, please confirm that the selected vendor may work with its M/WBE subcontractor to conduct audits where a conflict of interest may exist with an individual payor or provider and the prime contractor.</p> <p>The sample audit schedule provided in "Attachment E - HCRA Performance Audits" references an "Audit Assignment-Conflict Check," which may imply that conflicts of interest could exist. As such, we would like to clarify that such conflicts may be resolved by assigning 100% of audit procedures to the M/WBE subcontractor or vice versa with the prime.</p> <p>Please confirm whether this approach would be acceptable to resolve any potential conflicts of interest as</p>	Yes, this approach would be acceptable.

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		they pertain to Task Order Requests for Consulting Services as well.	
5.	<p>Section 3.2: Preferred Qualifications (Page 5, Bullet 1 of RFP)</p> <p>Section 6.2: Technical Proposal, Bullet C.2 Preferred Qualifications (Page 26 of RFP)</p>	<p>Can DOH please confirm that 6.2 Technical Proposal, Bullet C.2 Preferred Qualifications must be Five (5) years' experience as indicated in 3.2 Preferred Qualifications, Bullet 1, Page 5?</p> <p>Can DOH please confirm what time frame relevant experience must be in? For example, within the last Five (5) years, Seven (7) years, or Ten (10) years.</p>	<p>Yes, that is confirmed. Preferred Qualifications must be Five (5) years' experience as indicated in 3.2 Preferred Qualifications.</p> <p>There is no restriction on the time frame when the experience was gained.</p>
6.	Section 4.1: Tasks/Deliverables (Page 6 of RFP) Attachment B, Cost Proposal	Does the Department anticipate separate approaches to be shared for Article 28 general hospitals vs. diagnostic and treatment centers (D&TCs)? Will DOH consider a separate pricing structure required for various provider types, which may ultimately require varying degrees of effort?	No, the same pricing structure is expected to exist.
7.	Section 4.1: Tasks/Deliverables (Page 6 of RFP) Attachment B, Cost Proposal	If HFCAP audits are performed separate from HCRA audits, is a desk and field audit approach also required for the HFCAP audits? Is a separate pricing structure required for the HFCAP audits?	No, the same pricing structure is expected to exist.
8.	Section 4.1: Tasks/Deliverables (Page 6, Paragraph 3 of RFP)	Can DOH please confirm if delivering audits under AICPA Consulting Standards would be acceptable?	Yes, this would be acceptable.
9.	Section 4.1: Tasks/Deliverables (Page 7, Bullet B of RFP)	<p>It appears that the RFP does not specifically define the expected timeline for desk audits, nor the expectations for what level of reduction or limitation in scope/procedures is acceptable to differentiate a field and desk audit. As such, it appears that may be seeking respondents to help formally define the approach.</p> <p>Our understanding is that DOH may be seeking the calculation of an under/overpayment, which requires substantive testing of record level data. Typically, a desk audit is a review of completeness and accuracy, with a focus on compliance and risks of non-compliance; a field</p>	Yes, the Department of Health is open to proposals containing alternate approaches, including utilizing estimation approaches and/or statistical sampling. No specific timeline is defined.

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		<p>audit consists of detailed testing of record level data to substantiate results indicating that an auditee under or overpaid.</p> <p>As such, is DOH open to proposed desk audit approach which focuses on the identification of risks and instances of non-compliance, in lieu of the calculation of underpayments/overpayments?</p> <p>If a calculation of underpayments/overpayments is required, is DOH open to use of estimation approaches and statistical samples in lieu of full testing of record level data?</p>	
10.	Section 4.2: Staffing (Page 10 of RFP) Attachment B, Cost Proposal	As only partner, manager, and associate positions are listed on the standard form, is DOH willing to accept additional levels of staffing, such as senior associate vs. associate?	No. The staffing levels provided in Attachment B: Cost Proposal must be adhered to.
11.	Section 4.2: Staffing Audit Manager/Manager (Page 11, Bullet 3 of RFP)	<p>The RFP indicates that audits are to be conducted as Performance Audits, which are typically governed by Generally Accepted Government Auditing Standards (GAS, GAGAS, or Yellow Book), issued by the Comptroller General of the United States.</p> <p>Is five (5) years' experience conducting performance audits under these standards sufficient to meet this requirement?</p>	Yes.
12.	Section 4.2: Staffing, Staffing Requirements (Page 11 of RFP)	Please clarify whether the manager level is required to have a CPA license or whether this is a preference? In lieu of a CPA license at the management level, would it be acceptable if the lead Project Coordinator (partner) is a licensed CPA? Alternatively, would the Department accept a manager level resource with the requisite experience and skills to fulfil this role as otherwise described in the RFP?	Please see section 4.2 which specifies that the manager level is a CPA.

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13.	Section 4.2: Staffing, Staffing Requirements (Page 11 of RFP)	Please clarify whether all associates are required to have two (2) years of experience or whether this is a preference? In lieu of (2) years, would the Department accept an associate resource with the requisite experience and skills to fulfil this role as otherwise described in the RFP?	Please refer to Section 4.2. For the purpose of task orders, Associates are identified as having at least two (2) years of experience. For the purposes of audit and compliance activities, no minimum years of experience is identified for the Associate role.
14.	Section 4.5: Security (Page 14 of RFP)	Can DOH please define HRI and specify the security procedures referenced?	HRI is defined as Health Research Incorporated. The Contractor must comply with all privacy and security policies and procedures as identified in Section 4.5: Security of the RFP.
15.	Section 5.4: Payment (Page 16-17 of RFP)	It is our understanding that field audits can take 12 or more months per audit, and the RFP defines billing as a result of issuing the final deliverable. If a firm is required to take on those costs without the ability to bill prior, it can create significant risk on respondents. Consistent with other engagements and contracts, would the State consider a progress billing arrangement that would include 20% at the completion of audit kick-off, 40% at draft deliverable, and 40% at final deliverable.	Yes, the State will consider a progress billing arrangement; however, the pricing structure remains unchanged.
16.	Section 6.2.D.3: Project Implementation (Page 28 of RFP)	Is the Department seeking separate methodologies for desk and field audits each for HFCAP and HCRA?	Because the programs are different, different methodologies may be required; however, it is expected that the same framework is utilized for auditing both.
17.	Section 6.3: Cost Proposal (Page 29 of RFP)	Should bidders assume that all listed Compliance activities will take place in year 1, or will certain activities take place in later years during the contract period?	It is assumed that all compliance activities should be initiated in Year 1, with ongoing update, review, and improvement throughout the contract period.

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18.	Attachment B, Cost Proposal	The current cost proposal requirements include one price for desk and one price for field, which appears to combine both HCRA and HFCAP audits. Given the potential variables in scope, timeline, and effort for conducting HCRA desk/field audits compared to HFCAP desk/field audits, will DOH consider accepting a separate price for HFCAP and HCRA desk and field audits?	The pricing should take into consideration that both types of audits may be utilized; separate prices will not be considered.
19.	Section 4.1: Tasks/Deliverables and Section 5.4: Payment (Page 8 and 11 of RFP)	<p>Outside of the standard desk/field audit fee required in the cost proposal, would DOH be open to a pilot phase of launching the HFCAP audits in wave 1 under the 'Consulting services'?</p> <p>Based on our experience, the first time an entity or entity type is subject to audit, and it is the first time such a program is being audited, there are typically lessons learned at all project levels (agency, auditor, auditee) which can be applied to enhancing a standardized audit approach. Leveraging a pilot audit standup approach under consulting pricing can help DOH manage the cost associated with initial launching the new audit program.</p>	Yes, the Department of Health would consider a Pilot Phase.
20.	Section 4.4: Information Technology (Page 13 of RFP)	Can DOH clarify whether substantive modifications, beyond the one-time annual modification, is an example of what may be covered under the Consulting services?	In the current RFP, modifications are expected to be on a one-time annual modification schedule as identified in Section 4.4; however, additional transformational modifications may fall under the scope of Consulting Services. This would be subject to discussion between the Contractor and the State at the time of the proposed transformational modification(s).
21.	General	Upon review of the Request for Proposal (RFP) No. # 18695, titled HCRA and HFCAP Performance Audits and Compliance Activities, issued by the New York State Department of Health (DOH) on February 1, 2021, we noted that it does not include a limitation of liability (LOL) provision.	Yes, The Department would consider a Limitation of Liability.

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		<p>We request your consideration of a Limitation of Liability (LOL) provision. Large firms or partnerships are particularly disadvantaged by not having a LOL provision and therefore there are unintended consequences of limiting competition based on size or corporate structure. LOL provisions are common in the industry, and the effectiveness and enforceability of such a provision has been noted many times in New York legal decisions. The basic principle of a LOL is to cap a contractor's liability commensurate with the fees to be paid. The clause allows the parties to equitably assess the risks relevant to the particular project, and its inclusion is beneficial to the State as well as to businesses, both large and small. First, a LOL allows a business to evaluate risk and potentially take on more risk than normal because there is some contractual relief available. Second, when an appropriate LOL is negotiated, the State maintains a level of comfort with respect to potential liability that may exist relative to the project. Third, inclusion of a LOL helps promote competition as the pool of offerors will likely increase when potential liability is capped proportional to the project. Thus, the use of a LOL helps protect the State's interests in obtaining a "best value" while encouraging greater participation by small and large businesses to share in the project's associated risks.</p> <p>Based on the foregoing, we respectfully request your consideration of a Limitation of Liability provision. This could be accomplished in a couple of ways:</p> <p>Option 1: Issue an addendum to the RFP prior to the Q&A that includes a LOL provision.</p> <p>Option 2: DOH considers waiting to take a position on the acceptability of an LOL until the evaluation of proposals in response to RFP No. 18695, and allow the parties to propose subject to such a provision if they so choose. By doing so, the State will have the opportunity to weigh a vendor's requested LOL in connection with the benefits of</p>	

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		<p>the vendor's proposal as well as the risks associated with the vendor's business structure and capitalization. Further, by weighing acceptability of a LOL as part of the evaluation process, the State may obtain greater competition, which furthers "best value procurement goals." If Option 2 is considered an addendum should be issued prior to the QA with the appropriate updates to Section 2 Important Information.</p> <p>Thank you for considering this request. We believe consideration of LOL is in the best interest of the Department to encourage participation from firms that might otherwise not propose in the absence of LOL and to promote a "best value" outcome for this important procurement.</p>	
22.	Section IV: Contract Insurance Requirements	Is it possible for DOH and contractor to leverage contractual insurance requirements previously negotiated and currently included within an existing contract between DOH and contractor?	As part of Attachment 7, Bidder's Certified Statements, bidders are required to certify that they accept the contract terms and conditions as set forth in the RFP. NYSDOH reserves the right to negotiate terms of the contract that are nonmaterial 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 of the terms and conditions as set forth in the RFP without modification should NYSDOH determine that that constitutes the best interests of New York State.