

**RFO #20039 QUESTIONS AND ANSWERS**  
**DEADLINE EXTENSION**

Question Number	RFO Reference	Question	Answer
1	Amendment #1, Section 1.0: Calendar of Events	Since deadline for responses to questions has been pushed by a week, will the submission deadline also be pushed by a week to February 25, 2020?	The deadline for submission of offers has been extended to March 3, 2020. See Amendment 2.
2	Section 1.0: Calendar of Events (Page 4 of RFO)	As the RFO is an extremely extensive process and the answers to questions will not be posted until on or about January 24th giving entities less than a month to actually preparer all materials required in this process, will the department change the date to be at least 45 days from the date the questions and answers are posted? This change will allow for entities to better be able to show the department what they will be able to provide as a lead FI.	See answer to Question 1.
3	Section 1.0: Calendar of Events (Page 4 of RFO)	Can deadline be extended on the submission of RFO?	See answer to Question 1.
4	Section 1.0: Calendar of Events (Page 4 of RFO)	Is it possible to receive an extension on submission of the RFO?	See answer to Question 1.
5	Section 1.0: Calendar of Events (Page 4 of RFO)	Is possible to extend the deadline beyond February 18th, 2020 as we are working diligently however to put out best practices together while keeping operations and clients safe it is challenging. We would like the opportunity to put out best foot forward.	See answer to Question 1.
6	Section 1.0: Calendar of Events (Page 4 of RFO)	As you will see from our extensive list of questions, this is a complicated matter with several business and policy implications for which our organization requests an extension for the deadline to submit offers from February 18 until March 2. Indeed, doing so will allow applicants the time necessary to make appropriate arrangements and collect important information in order to put forward the best offers for the good of the CDPAP, Consumers served by the program, the PAs who provide care and the FIs who support them.	See answer to Question 1.
7	Section 1.0: Calendar of Events (Page 4 of RFO)	On behalf of many of our members who are Fiscal Intermediaries, we request that DOH extend the due date for submission of RFO#20039 from February 18th to at least March 3. Based on the tremendous volume of questions about this RFO that we have received and assume that you have also received, those entities will need additional time after the posting of Q&As by DOH (on about January 17) to submit the application, appendices and forms. Any extension would be greatly appreciated.	See answer to Question 1.
8	Section 1.0: Calendar of Events (Page 4 of RFO)	The RFO establishes new standards for FIs in addition to asking for a lot of information. Could the DOH consider postponing the deadline for submission?	See answer to Question 1.

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9	Section 1.0: Calendar of Events (Page 4 of RFO)	Can the February 18, 2020 deadline be extended to permit eligible entities reasonable time to assess their role as a Lead FI or subcontractor as these are new concepts. Applicants need to assess their business, prepare their Offer and secure their potential lead or subcontracting partners and this cannot occur within the 60 day period (a portion of which fell over the December/January holidays).	See answer to Question 1.
10	Section 1.0: Calendar of Events (Page 4 of RFO)	Given the complex nature of the proposal and the submission requirements, would the State consider granting an extension to the RFO due date (currently February 18, 2020)?	See answer to Question 1.
11	Section 1.0: Calendar of Events (Page 4 of RFO)	Once responses to the RFO questions submitted January 10, 2020 are posted, will the department provide a period and mechanism for clarifying questions surrounding the responses?	See answer to Question 1.
12	Section 7.0: Offer Submission (Page 26 of RFO)	Page 26, Section 7, is the Department considering extending the deadline for the submission of offers beyond February 18, 2020?	See answer to Question 1.
13	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	What is the deadline for submission of offers responsive to the RFO by a new Fiscal Intermediary (not operating before April 1, 2019)? I understand the deadline for submission of offers by all Fiscal Intermediaries operating on or before April 1, 2019 is February 18, 2020, but it is not clear if this deadline applies to new Fiscal Intermediary applications.	All offers must be received no later than March 3, 2020.

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**WHO NEEDS TO APPLY**

Question Number	RFO Reference	Question	Answer
1	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Our organization applied for this program and was returned for modification and additional documents. Can we still apply for the CDPAP application?	<p>Any entity that would like to begin to provide, or continue to provide, fiscal intermediary (FI) services in New York State for the CDPAP under SSL Section 365-f MUST submit an offer under the terms of Request for Offers #20039.</p> <p><b>The previous FI authorization process was repealed by Chapter 57 of the Laws of 2019 and therefore any application submitted or approval received under this previous process is considered null and void, that is previous applications submitted to the Department for provision of fiscal intermediary services will NOT be reviewed further or approved.</b></p> <p><b><u>Offers submitted under this RFO should include all forms and narrative components as outlined in RFO Section 6.0: Offer Content.</u></b> No forms previously used for the FI authorization should be submitted.</p> <p>Entities eligible to submit an offer are outlined in RFO Section 3.0: Offeror Qualifications.</p>
2	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	It is unclear whether new FI can respond to this request. The RFO states "regarding existing FIs". Please clarify.	See answer to Question 1.
3	Attachments (Pages 29-36 of RFO)	I am unsure if I need to fill out the attachments sent. We currently have CDPAP services with various organizations. We have also signed an Administrative Agreement for the Provision of Fiscal Intermediary Services for the Consumer Directed Personal Assistance Program with Extended MLTC (MCO). We are unsure if these are the same. Please kindly advise.	See answer to Question 1.
4	Amendment #1, Section 1.1: Who Needs to Apply?	Our Agency currently has contracts with four (4) Managed Long Term Care companies to provide PCA services and CDPAP services on their behalf. Would you be kind enough to clarify whether our Agency is required to submit an RFO in connection with this Amendment?	See answer to Question 1.

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5	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	As I am following the RFO #20039, I would like to know if I can submit an application for a FI authorization. Is the division accepting new FI authorization applications at this time? If yes, would I submit this application simultaneous with responding to the RFO listed?	See answer to Question 1.
6	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	If an Fiscal Intermediary application was previously pending with NYS DOH; can that operator file to be a Subcontractor or a Lead? If yes, how best to proceed? If the previous question is yes; then can a new application be filed that has never made application before? If yes, how best to proceed?	See answer to Question 1.
7	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Our organization has a Medicaid Provider number for this category of service. Do we need to respond to the Request for Offers #20039.	See answer to Question 1.
8	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	Can a new applicant apply (we applied 1 1/2 years ago before the new RFO)?	See answer to Question 1.
9	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	As a LHCSA how do we become an approved provider of CDPAP services?	See answer to Question 1. Please also see Questions and Answers related to required firewalls.
10	General	Wondering if anything is wrong with my application?	See answer to Question 1.
11	General	Are any section from previous FI application relevant for this application?	The Department will not perform a crosswalk with previous applications. A new offer must be submitted. See answer to Question 1.
12	Section 2.1: Background Information (Page 5 of RFO)	Can you define and give examples of a Leading FI?	The Lead FI will be the organization that enters into contract with the State and is responsible for all services required under the RFO.
13	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Can state further define lead FI?	See answer to Question 12.

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14	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Please clarify and explain what is meant by Lead FI.	See answer to Question 12.
15	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Definition for LEAD FI and responsibilities?	See answer to Question 12.
16	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Previously, NYSDOH felt that FIs needed to have been operating since January 1, 2012 to be eligible moving forward. Now the RFO opens eligibility to not just current FIs, but also any entity that feels itself capable of performing FI duties. What changed?	The RFO reflects the eligibility criteria as identified in SSL 365-f.
17	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	Do small and steadily growing agencies with exemplary qualities have advantages over agencies with hundreds of patients, but who are no longer growing?	Each offer will be evaluated based on the responses provided in relation to Section 6.0: Offer Content.
18	General	We currently have an agreement with a County Department of Social Services to service Medicare CDPAP cases as well as CDPAP cases from MLTCs. We are also approved to service Medicaid cases. With this Request for offers (RFO) #20039: 1. Are we affected or is it for new FI applicants? 2. Do we have to make an offer to be a Fiscal Intermediary for CDPAP again? 3. When is the deadline for this request for offers? 4. When our offer is approved, does that override the one we currently have with Suffolk County DSS and MLTCs?	1 and 2: See answer to Question 1. 3. Offers are due no later than March 3, 2020. 4. The New York State contract the Lead FI enters into will serve as an agreement with the counties in the approved service area. Lead FIs will be required to also enter into administrative services agreements with managed care organizations.
19	General	I am writing to ask if the Fiscal Intermediary RFP/Authorization Process pertains to the Office for the Aging Consumer Direct Program? I assume it is just for the Medicaid Consumer Direct Program but I want to verify my assumption.	No. This RFO pertains specifically to the Medicaid Consumer Directed Personal Assistance Program that operates pursuant to section 365-f of the New York State Social Services Law.
20	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Per the provisions of section 365-f (4-a)(b)(iv) all entities providing FI services to NY Medicaid on or before April 1, 2019 ("current FIs") must submit an offer to contract with the Department to provide FI services by responding to this RFO within 60 days of its issuance. Does this mean that all OPWDD FIs must submit an offer to contract? We have a current FI contract with OPWDD.	No. This RFO pertains specifically to the Medicaid Consumer Directed Personal Assistance Program that operates pursuant to section 365-f of the New York State Social Services Law.

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Question Number	RFO Reference	Question	Answer
21	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	Can an entity that is not currently providing FI services submit an application under this RFO to provide FI services?	See Section 3.1 Eligible Offerors.
22	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	Can an entity that started providing FI services after April 1, 2019 still apply under this RFO?	See Section 3.1 Eligible Offerors.
23	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Can a new entity with years of experience in home health care apply? Section 2.0 (C)	See Section 3.1 Eligible Offerors.
24	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Please confirm that entities who are not currently FIs can apply to become FIs under this RFO.	See Section 3.1 Eligible Offerors.
25	General	Are lead FIs already pre-determine based on the 2012 cut off period?	No. Please refer to RFO Section 3.1 Eligible Offerors.
26	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Is it only for current FI and service center for independent living (ILC)? Or can any new entity that's capable of providing the service be eligible? Does this entity need to have Medicaid?	No. See Section 3.1 Eligible Offerors. Entities chosen to contract with the Department for the provision of FI services will be required to be enrolled as a Medicaid provider.
27	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	If an FI transferred their operations to a new entity, including the contracts in place prior to 2012, is that entity considered continuously providing services?	Yes.
28	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Please explain why the eligibility criteria include both FIs established prior to 1/1/2012 and continuously providing services (section 2.0(b)) and entities capable of appropriately providing FI services (section 2.0(c)); and whether these eligibility categories are intended to have bearing on whether eligible entities submit offers as Lead FIs, Collaborating Partners, or Subcontractors.	The RFO reflects the eligibility criteria as identified in SSL 365-f. Whether an eligible entity decides to submit an offer as a Lead FI, or be included in other offers as a collaborating partner or subcontractor is at the discretion of the eligible entity.

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Question Number	RFO Reference	Question	Answer
29	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	In one section, the RFO considers all entities providing FI services to NY Medicaid on or before April 1, 2019, to be current FIs. Why does the RFO return to using January 1, 2012 as the eligibility standard for being an existing FI? Is any preference given at any stage of the RFO process to entities that are ILCs or FIs in existence before January 1, 2012?	See answer to Question 28.
30	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Please explain why the eligibility criteria include both FIs established prior to 1/1/2012 and continuously providing services (section 2(b)) and entities capable of appropriately providing FI services (section 2(C)); and whether these eligibility categories are intended to have bearing on whether eligible entities submit offers as Lead FIs, Collaborating Partners, or Subcontractors.	See answer to Question 28.
31	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	The Capable Entity Standard is broad. What criteria will DOH use to determine if an offeror or a proposed subcontractor of an offeror meets that standard?	See answer to Question 28.
32	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	Does the size of the agency matter?	No. RFO Section 4.5 states: "The Contractor will: a) Be willing and able to serve any consumer in the Contractor's selected service area;"
33	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	If you have never applied before as a FI can you submit a RFO? Do you need to submit and email application and FI authorization form? Or just a RFO?	See Section 3.1 Eligible Offerors. Offerors must submit an offer in accordance with the RFO including all forms and narrative components as outlined in RFO Section 6.0 Offer Content.
34	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	Based on my review of the New York State Department of Health's ("Department") literature seeking competitive responses to its Request for Offers ("RFO") from potential qualified entities to enter into contract with the Department to provide Fiscal Intermediary ("FI") services under the CDPAP, it is unclear whether we may apply and/or serve as a subcontractor/collaborating partner that provides services and support functions on behalf of a Lead FI if it is not an already authorized FI.	See Section 3.1 Eligible Offerors.
35	Section 3.1: Eligible Offerors (Page 6 of RFO)	Presumably an entity that has been established as a Fiscal Intermediary ("FI"), but on or after January 1, 2012, and has been continuously providing services for CDPAP consumers under SSL § 365-f would meet the Capable Entity Standard?	See Section 3.1 Eligible Offerors.
36	Section 3.1: Eligible Offerors (Page 6 of RFO)	Presumably an entity that is providing services to a FI pursuant to an management agreement would meet the Capable Entity Standard?	See Section 3.1 Eligible Offerors and Attachment B.

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37	Section 3.1: Eligible Offerors (Page 6 of RFO)	Page 6, Section 3.1(b), if an entity can demonstrate that it has been a Fiscal Intermediary prior to January 1, 2012 and has been continuously providing services for CDPAP individuals in any area (county) of the state, does this qualify that entity as an Eligible Offeror in any area of the state they offer to serve?	Yes. Offerors can seek a fiscal intermediary service area that extends beyond the counties in which they currently operate so long as they are able to meet the requirements outlined in RFO Section 4.0, either directly or through collaborating partner agreements.  See Section 3.1 Eligible Offerors and Attachment B.
38	Section 3.2: Collaborations (Pages 6-7 of RFO)	Does a collaborating/subcontracting FI or a Lead FI have to be a currently operating FI?	No. See RFO Section 3.1: Eligible Offerors and Section 3.2 Collaborating Partners.

**RFO #20039 QUESTIONS AND ANSWERS**  
***CURRENT CDPAP ENROLLMENT***

<b>Question Number</b>	<b>RFO Reference</b>	<b>Question</b>	<b>Answer</b>
1	General	How many active CDPAP enrollees are there in the program?	There were approximately 74,000 individuals who received CDPAP services during the period June 2018 through June 2019.
2	General	How many active Financial Intermediaries are currently in the program?	At the Department's last estimation, there were approximately 450 FI's with operating agreements with MCOs or LDSS.
3	General	Can the state provide a distribution of active CDPAP enrollees by Financial Intermediary?	No, this information is not currently tracked comprehensively by the Department.
4	General	Can the state provide a breakdown of budgets and number of attendants?	This information is not available to the Department.
5	General	Nowhere in the RFO does it ask for a patient census. Shouldn't this be relevant since it will be much more difficult to transition members if a large FI does not receive approval?	Offers will be evaluated based on the criteria outlined in RFO Sections 4.0, 6.2 and 8.0.
6	General	Is there a list of the largest FIs currently operating in NYS so my clients can contact them to be subcontractors?	The Department does not maintain a list for purposes of assisting potential offerors.
7	General	What is the population size for CDPAP statewide and its break down by county?	A breakdown of CDPAP consumers by county who received at least one services in the period June 2018 through June 2019 is posted on the RFO website. This data is for reference purposes only.

**RFO #20039 QUESTIONS AND ANSWERS**  
***CURRENT CDPAP ENROLLMENT***

Question Number	RFO Reference	Question	Answer
8	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Paragraph 4: What is the current count of CDPAP consumers segmented by geographic region?	See answer to Question 7.
9	Section 6.2: Technical Offer, Subsection F (Pages 23-26 of RFO)	Section 6.2(F) states that contracts will be awarded so as to ensure “access and choice for consumers statewide.” Does DOH have a list of all consumers statewide, including those receiving services through the MCOs? What about a list of all consumers who are pending to receive services?	See answer to Question 7.
10	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Paragraph 5: What percentage of current CDPAP consumers are enrolled with a Managed Care Organization (i.e. Medicaid Managed Care program)?	It is estimated that approximately 85% of CDPAP consumers are enrolled in a managed care plan.
11	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Paragraph 4: Can the Department provide the number of consumers served per FI?	See answers to Questions 1 and 3.
12	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	What is the average service authorization?	The Department does not maintain this information for purposes of assisting potential offerors.

**RFO #20039 QUESTIONS AND ANSWERS**

**MANAGED CARE ORGANIZATIONS AND LOCAL DEPARTMENT OF SOCIAL SERVICES CONTRACTING**

Question Number	RFO Reference	Question	Answer
1	General	Panels with many MLTCs are currently closed for new contracts for fiscal intermediaries. Will the department be making requirements to the MLTCs to re-open their panels for new contracts as well as cancelling the existing contracts? If the existing contracts will be cancelled there needs to be an explicit process on how the MLTCs will cancel the contracts and transition the clients to new providers.	MLTC contracts require consumers have adequate choice of fiscal intermediaries. Following the RFO solicitation process, managed care organizations will need to review the final list of Department contracted FIs and consider the impact on the composition of their contracted network of FIs for the purposes of offering the CDPAP to their members.
2	General	Who are the MCO's in the state that will be contracted with?	Listings of managed care organizations are located at:  Managed Care Plans: <a href="https://www.health.ny.gov/health_care/managed_care/plans/mcp_dir_by_plan.htm">https://www.health.ny.gov/health_care/managed_care/plans/mcp_dir_by_plan.htm</a>  MLTC Plans: <a href="https://www.health.ny.gov/health_care/managed_care/mltc/mltclplans.htm">https://www.health.ny.gov/health_care/managed_care/mltc/mltclplans.htm</a>
3	General	What is the role of LDSS moving forward?	The LDSS would still be required to determine eligibility for CDPAP services and other roles and responsibilities as defined in 18 NYCRR 505.28, 11ADM-06 and any other guidance provided by the Department.
4	General	Will (MCO) now allow new CDPAP companies to enter into a contract? They have not been accepting new companies.	See answer to Question 1.
5	General	Are Managed Long Term Care (MLTC) programs as defined by NYSDOH MRT 90 included in the RFO? If MLTC Plans are included in the RFO, will the MLTC Plan be required to then follow the applicable 18 NYCRR § 505 regulations.	MLTCs are contemplated in the RFO as explained in Section 2.0, which states: "Entities chosen to contract with the Department may also enter into administrative service agreements/contracts with MCOs to serve CDPAP members enrolled in managed care plans."
6	General	Who does assessments in FFS?	LDSS conduct assessments for fee-for-service consumers. See answer to Question 3.
7	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Section 2.0 notes that entities under contract with the Department for the provision of FI services will not need to contract with a local county. Will a LDSS be able to refuse to refer consumers to a particular FI? Will a LDSS or plan be able to steer consumers to a particular FI by providing a referral without a consumer option or forcing the consumer to opt-out of a relationship with a particular FI in order to choose another one?	Fee-for-service consumers may select any Lead FI that is contracted with the Department and authorized to provide FI services in the LDSS' county.  For MCO consumers, see answer to Question 1.  It is the responsibility of the LDSS or MCO to provide a full list of contracted FIs to the consumer to enable consumer choice.

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Question Number	RFO Reference	Question	Answer
8	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	"Entities chosen to contract with the Department for FI services under this RFO will agree to provide FI services to any CDPAP consumers enrolled in NY Medicaid in the FIs authorized service area". Does this mean that any confirmed FI must have an agreement with any LDSS in the areas they serve or can they choose to solely contract with MCOs?	Per RFO Section 4.5, "The Contractor will: a) Be willing and able to serve any consumer in the Contractor's selected service area..."  By choosing to contract with the Department, the Lead FI agrees to serve any member in the service area whether fee-for-service or managed care.
9	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	If assignment of the offer, will no longer necessitate a contract with DSS, what will happen to DSS specific contract requirements? In other words, NYC HRA currently requires us to do tasks that are beyond what the DOH requires. Will we need to continue doing so? Or the DSS contracts will no longer be applicable?	As of the effective date of the contract with the Department, the LDSS contracts will no longer be applicable. The requirements of FIs are as provided under the terms of the RFO, resulting contract and all applicable laws, regulations and guidance as provided by the Department.
10	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Page 5 of the RFO at the top, it states that the FI is not required to enter into contract directly with LDSS to serve CDPAP fee for service members. Does this mean that the FI will not need authorization from the LDSS for those specific members with fee for service Medicaid and will get paid from Medicaid directly? Or is that the FI is not required the LDSS fee for service CDPAP members.	See answer to Question 3.
11	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	What becomes of FI relationships with local departments of social services (LDSS) if the FI will now be contracting with the State? Who will authorize services for recipients of Fee-For-Service Medicaid?	See answer to Question 3.
12	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	What is the role for LDSS as a result of the RFO? Some LDSS have required FIs to apply to provide CDPAP services in their districts. What becomes of those obligations?	See answer to Question 3.
13	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	The RFO states that the FI or Lead FI may enter into an agreement with MCOs for the provision of fiscal intermediary services. Why is reference to the establishment of agreements with LDSS not included? Regulation 505.28(i)(1)(vii) and SSL 365-f 4(a)(ii)(l) both state that FI is to enter into agreements with the LDSS.	See answers to Questions 1 and 9.

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14	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	If the FI or Lead FI contracting with the State does not have a current contract with the LDSS in the FI's service area, will the State mandate the LDSS to establish an agreement with the selected FI or does each LDSS continue to choose who they wish to contract with regardless of this RFO?	Each LDSS will work with all contracted Lead FIs approved in their county. See answer to Question 7.
15	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	What if an MCO does not wish to contract with an FI that has been awarded a contract by the State? How will the State ensure FIs get contracts with MCO's?	See answer to Question 1.
16	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	In order to provide CDPAP services for RFO #20039, would we need a contract with the Local District Social Service Department? Which district should I contact in order to start the process?	See answer to Question 9.
17	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Bullet F: How are service authorizations currently transmitted to the Fiscal Intermediaries and are they provided in a standardized format? Can DOH provide the data fields and other specifications for the data file and interfaces?	The Department is not currently aware of any specified format for the transmission of service authorizations to the fiscal intermediaries by either the LDSS or MCO.
18	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Bullet F: Are there any specific file formats/mechanisms required for data exchange between the FIs and DOH/MCO or other parties?	See answer to Question 17.
19	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Bullet F: Is the process, data fields and format the same for exchanging service authorization information with the MCOs?	See answer to Question 17.
20	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Bullet I: Please describe the responsibilities of the following entities to be included in the MOU: LDSS and MCO.	<p>The current MOU between consumers and MCOs can be found here:  <a href="https://www.health.ny.gov/health_care/medicaid/redesign/cdpap_member_plan_mou_final.htm">https://www.health.ny.gov/health_care/medicaid/redesign/cdpap_member_plan_mou_final.htm</a></p> <p>The current MOU between consumers and LDSS can be found here:  <a href="https://www.health.ny.gov/health_care/medicaid/publications/docs/adm/11adm-6att5.pdf">https://www.health.ny.gov/health_care/medicaid/publications/docs/adm/11adm-6att5.pdf</a></p> <p>Each MOU describes the responsibilities of all parties.</p>

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Question Number	RFO Reference	Question	Answer
21	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	RFO Section 4.1(i) - Will DOH provide such memoranda of understanding or will the Fiscal Intermediary be responsible for drafting the MOA? If the Fiscal Intermediary is responsible for drafting the MOA, what are the steps that will need to be followed for approval?	See answer to Question 20.
22	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	Subbullet a) If I am selected as the lead FI, will I have to accept all cases from managed care plans or will I have discretion in deciding which plans I want to contract with?	State contracted FIs are not obligated to contract with MCOs but the Department would expect that MCOs and FIs will be able to reach agreement on coverage for members in their service area for the CDPAP population.
23	Section 4.7: Quality Monitoring and Reporting Requirements (Page 11 of RFO)	Are the state contracted FIs obligated to contract with MCOs? If not, how do MCOs ensure that they can meet their obligations to provide CDPAP to its members?	See answer to Question 22.
24	Section 4.7: Quality Monitoring and Reporting Requirements (Page 11 of RFO)	If there is a Consumer or PA complaint with a MCO or a LDSS, and not with the FI? (Section 4.7, part D): a) How is appropriate resolution defined? b) Who would obtain appropriate resolution? Would it fall to a Service Coordinator or Care Manager? c) Would the FI be responsible for tracking and/or reporting resolutions with these complaints to the DOH or any other entity?	It will depend on the nature of the consumer or PA complaint, but the Department expects most of the issues described to be determined through the MCO or LDSS complaint process.  The FI should track all complaints related to the provision of CDPAP services, even if the disposition of such complaint is to assist the consumer or PA in referring the complaint to the MCO or LDSS complaint process.
25	Section 5.4: Payment (Page 14 of RFO)	Page 14, Section 5.4., paragraph 3 – the RFO indicates that MCO contracts will be “consistent with State laws, rules, and applicable guidance”. Can the State please indicate what specific laws, rules, and guidance would be applicable to the resulting contract(s)?	Laws, rules and guidance include, but are not limited to, SSL Section 365-f, 18 NYCRR 505.28, 10 NYCRR 766.11(c) and (d) 10 NYCRR 98-1.11, provisions of the model contract, any MLTC policies and any applicable federal laws and regulations.
26	Section 5.4: Payment (Page 14 of RFO)	(Page 14, Section 5.4, paragraph 3) “Fiscal Intermediaries contracted by the Department through this RFO will be qualified to enter contracts with the MCOs. The terms of these contracts shall be consistent with State laws, rules and applicable guidance.” – will the State please clarify if this language indicates that MCO’s payments to FI’s must be the same as with the State?	MCOs will negotiate payment rates with the contracted FI.
27	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Will subcontractors be allowed to communicate directly with MLTC’s or must all Consumer information be communicated via the Lead FI?	Direct communications between subcontractors and plans are not precluded by RFO but the permissibility of such communications will be governed by the role of the subcontractor and the terms of the agreement between the parties.
28	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Will the lead FI automatically absorb the sub FI MCO contracts, so that it can bill for services and pay the sub or its caregivers?	No. Transition guidelines will be provided by the Department.

**RFO #20039 QUESTIONS AND ANSWERS**  
**JOINT EMPLOYER**

Question Number	RFO Reference	Question	Answer
1	Attachments (Pages 29-36 of RFO)	<p>What is the significance of the Joint Employer Attestation in Attachment B?</p> <p>a. Please define Joint Employer.</p> <p>b. Does this expand the obligations and liabilities of FIs from current requirements?</p> <p>c. Does this expand the obligations and liabilities of Consumers from current requirements?</p> <p>d. Will FIs and Consumers be jointly and severally liable under this arrangement?</p> <p>e. Will Consumers in CDPAP also have to sign a joint employer attestation?</p> <p>f. What rights will an FI have as a Joint Employer if a Consumer fails to fulfill his or her responsibilities?</p> <p>g. Can an FI be held liable and subject to penalty for the actions of the Consumer under federal and NYS laws that apply to employers, such as the Affordable Care Act's penalties, ERISA and other related laws? This has a significant impact on an FI when the PA are included as employees as to the costs of health care plans and eligibility factors in retirement plans.</p> <p>h. Who is responsible for OSHA regulation compliance such as annual infection control/bloodborne pathogen education? The Consumer or FI?</p> <p>i. Can the FI be held liable as a "joint employer" when a Consumer's PA injures the Consumer or someone else at the location where the PA is providing services for the Consumer?</p> <p>j. Can the FI be held liable when the Consumer or someone else at the place of service harasses the PA based on the protected classes covered by anti-discrimination law? Recently enacted workplace harassment and other laws make it easier for a worker to file a claim, yet the FI does not have any control over the worker schedule or work environment.</p> <p>k. On what authority is the requirement to sign a Joint Employer Attestation based?</p>	<p>The concept of joint employment is that the Lead FI and the consumer will each have certain employment related responsibilities to the personal assistant.</p> <p>The joint employer attestation asks Fiscal Intermediaries (FI) to acknowledge their status as a joint employer to ensure that FI services and obligations are provided in compliance with applicable case law, while also maintaining consistent state-wide operation of, and standards applicable to, the Consumer Directed Personal Assistance Program (CDPAP).</p> <p>In <u>Hardgers-Powell v. Angels in Your Home</u>, No. 16-cv-6612, 2019 WL 409276 (W.D.N.Y. Feb. 1, 2019), the United States District Court for the Western District of New York held that a FI was the joint employer of a consumer's personal assistant, noting that "the statutory and regulatory scheme under which [consumers, FIs, and personal assistants] operate is not one where overall operational control can be readily isolated to one actor, because each actor's responsibilities are interwoven with the others." In keeping with the court's ruling, and to achieve a consistent statewide standard, the joint employment attestation requires the FIs to acknowledge that their relationship to PAs is an employer-employee relationship as determined by and to the extent that FIs are responsible for employment related practices in statute and regulation. Similarly, the responsibilities an FI has as an employer under state law does not extend where the FI is unable to control the employment relationship, such as recruiting, hiring, scheduling, training or terminating PAs, which are the consumer's responsibilities pursuant to SSL § 365-f(4-a)(a)(iii).</p> <p>If an FI has reason to believe a consumer is not self-directing, the FI is required to report this to the MCO or LDSS.</p> <p>Any compliance obligations under federal law that may arise out of the joint employer attestation should be evaluated by an offeror with its labor and employment counsel.</p>
2		<p>What rights will an FI have as a Joint Employer if a Consumer fails to fulfill his or her responsibilities?</p>	<p>If a consumer or designated representative is unable or unwilling to fulfill their responsibilities, they may no longer be eligible for consumer directed services. The Lead FI is responsible for monitoring the consumer's ability to fulfill their responsibilities, and notify the MCO or LDSS if there is concern the consumer is no longer able to fulfill these responsibilities.</p>
3	Attachments (Pages 29-36 of RFO)	<p>If an FI signs the Joint Employer Attestation will there be retroactive application?</p>	<p>The attestation reflects the Department's view as part of the RFO that FIs are joint employers. The attestation does not alter the Department's view of the current relationship between the FIs and the PAs</p>

**RFO #20039 QUESTIONS AND ANSWERS**  
**JOINT EMPLOYER**

Question Number	RFO Reference	Question	Answer
4	General	Please explain why the state is considering FIs to be joint employers. This designation will bring new responsibilities to FIs and change the nature of CDPAP and the FIs.	See answer to Question 1.
5	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Section 2.0 notes that a FI "...will agree to provide FI services to any CDPAP consumers enrolled..." (emphasis added). Many FIs currently make decisions about their ability to serve consumers based on a range of regulatory and agency-based decisions. These can include, but are not limited to: • whether or not the FI deems, in their non-professional judgement, that a consumer cannot self-direct; • whether they suspect fraud; and • the consumer's willingness or ability to hire adequate amounts of staff to avoid excessive overtime; and • compliance issues. If a FI must attest that it is a joint employer, this list will by necessity expand to include factors such as whether the consumer is discriminating against or sexually harassing PAs or potential PAs. The factors noted on this list, and as necessary in a joint employment role, are in direct contradiction to the requirement to serve any consumer. Will a FI continue to be able to apply these and other lawful standards when determining if it will serve a consumer? If not, what protection from liability will the FI be afforded for behaviors it knows are occurring, or conditions it knows are unsafe or hostile; but which it must continue to allow because it cannot refuse to serve the consumer?	Once the MCO or LDSS has determined an individual is eligible for CDPAP services, it is determined that person can self direct. See answer to Question 2.  See "Fiscal Intermediary Program Expectations" Questions and Answers, Question 60.  SSL Section 365-f prohibits Fiscal Intermediaries from recruiting, hiring, scheduling, training, supervising or terminating PAs or managing the Consumer's authorized plan of care. Dictating the number of hours a Personal Assistant can work and refusing lawful overtime pay can infringe on the Consumer's ability to schedule the Personal Assistant of their choice.
6	Section 3.1: Eligible Offerors (Page 6 of RFO)	Please confirm that by signing the Joint Employment Attestation, an entity is acknowledging its role as a joint employer going forward from the date of the application and not retroactive to any prior time period.	See answer to Question 3.
7	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment	As a new joint employer acknowledgment is required in order to apply for the RFO. My question is when will this acknowledgement be effective? As soon as this is submitted or as soon as the contract will be granted?	See answer to Question 3.
8	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment	The RFO requires an acknowledgement by the Lead FI that it is a "joint employer". Please confirm that NYS and its agencies will view this acknowledgement by the Lead FI solely on a going forward basis.	See answer to Question 3.
9	Section 3.1: Eligible Offerors (Page 6 of RFO)	Regarding Section 3.1, second bullet point. "Acknowledge their status as a joint employer for the consumer directed personal assistant by signing the acknowledgement form in Attachment B. Will the Department remove the "joint employer"" acknowledgement from the RFO?	No.

**RFO #20039 QUESTIONS AND ANSWERS**  
**JOINT EMPLOYER**

Question Number	RFO Reference	Question	Answer
10	Section 4.0: Fiscal Intermediary Services (Pages 7-13 of RFO)	NYCRR § 505.28(g)(1) and Social Services Law § 365-f (4)(a)(iii) both state the Consumer is responsible to provide authorized services that are included on the Consumer’s plan of care. What rights does an FI have and would they be liable when a PA submits for hours worked beyond a Consumer’s authorized hours or for services outside the Consumer’s plan of care such as “informal support” hours, “on call” time, job-related training hours, or time driving a Consumer to a specific destination all of which may be claimed by a PA, but subject the FI to payment of unauthorized hours worked? Only the Consumer or their representative knows if the PA provided services as per the plan of care.	See answers to Questions 1 and 30.
11	Section 4.0: Fiscal Intermediary Services (Pages 7-13 of RFO)	Section 4.0, Fiscal Intermediary Services, sets forth a broad list of services which a Fiscal Intermediary (FI) is required to perform. Section 4.3, Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements, requires a FI to accept and acknowledge its role as a joint employer, with the Consumer, of the Personal Assistant (PA). Section 4.4, Fiscal Intermediary Compliance Requirements, lists all of the applicable laws, rules, and guidance a FI must comply with. Section 4.1 sets forth a list of services which are not required of the FI and that only the Consumer may carry out. Specifically, Section 4.1 provides: “Fiscal Intermediaries are not responsible for, and fiscal intermediary services shall not include fulfillment of the responsibilities of the consumer which include ... b) Training, scheduling and supervising PAs including arranging and scheduling substitute coverage when a PA is temporarily unavailable for any reason; ... d) Timely approving and attesting to the accuracy of PA time records and transmitting such information to the FI according to the FI’s procedures; e) Timely notifying the FI of changes in employment status of any PA; f) Timely distributing PAs employment checks, if necessary; and g) Terminating PAs.” FIs may need to contribute to the fulfillment of these consumer-only responsibilities in order to perform required services, meet applicable laws, and serve as a joint employer. We seeks further explanation regarding these inconsistent provisions.	See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**  
**JOINT EMPLOYER**

Question Number	RFO Reference	Question	Answer
12	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	On page 30 of the RFO (Attachment B, Joint Employment Attestation), the Offeror must acknowledge that its role as Fiscal Intermediary (FI) is that of a joint employer. The FI thus assumes all the liability of an employer. However, on page 8, paragraph 1 a-g of Section 4.1, the FI also acknowledges that it has no control over certain employer responsibilities which are the sole responsibility of the consumer. This creates the potential for the FI to be held liable in some situations for the consumer's employment practices despite having no ability to affect such practices in any way. Can an FI be held liable and subject to penalty under federal and NYS laws that apply to employers with a certain minimum number of employees, such as the Affordable Care Act's penalties for not providing workers with acceptable health insurance under that Act?	See answer to Question 1.
13	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	On page 30 of the RFO (Attachment B, Joint Employment Attestation), the Offeror must acknowledge that its role as Fiscal Intermediary (FI) is that of a joint employer. The FI thus assumes all the liability of an employer. However, on page 8, paragraph 1 a-g of Section 4.1, the FI also acknowledges that it has no control over certain employer responsibilities which are the sole responsibility of the consumer. This creates the potential for the FI to be held liable in some situations for the consumer's employment practices despite having no ability to affect such practices in any way. Can an FI be held liable when a consumer's PA injures, intentionally or otherwise, the consumer or a member of the consumer's family, guests, or bystanders at the location where the PA is performing services for the consumer? Or when the PA is harassed by anyone based on the protected classes covered by anti-discrimination laws?	See answer to Question 1.
14	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Can an FI, at other than at prohibitive cost, obtain comprehensive property and casualty and other business insurances to cover the risks of injury to consumers and others present in the locations where the PA is providing services to the consumer? Or, will an insurer deny coverage of a claim once it determines that the FI was barred from direction and control over the PA or the hiring or firing of the PA, the location at which services were provided, or any way of protecting against the risks to the consumer, a member of the consumer's family, guests or bystanders?	See answer to Question 1.
15	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	How is joint employer defined in NY. Does the state operate this program as what is commonly referred to as agency with choice?	See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**  
**JOINT EMPLOYER**

Question Number	RFO Reference	Question	Answer
16	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Section 4.1, consistent with social services law section 365-f, prohibits the FI from being involved in the hiring, working conditions, or termination of personal assistants (PAs); however, the FIs role as a joint employer would make it liable for the actions of the PA as it relates to fraud, sexual harassment, discrimination, and other behaviors and actions. Can the DOH clarify how a FI will protect itself against this liability?	See answer to Question 1. See also "Fiscal Intermediary Program Expectations" Questions and Answers, Question 60.
17	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Under RFO Section 4.1 with respect to the enumerated list for which FIs are not responsible, if the FI is not responsible to fulfill the responsibilities of the Consumer such as with item "c) Assuring PAs competently and safely perform the required services:" What is the FI's liability as a joint employer or otherwise when a PA or Consumer is injured due to unsafe practice or the misuse of equipment.	See answer to Question 1.
18	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Page 8, Section 4.1, since the FI is not responsible for and shall not fulfill essential activities such as accuracy of PA employment status changes and timely distribution of PA employment check, what protections are established for the FI awarded under this RFO for the failure of fulfillment of these activities by the Consumer when the FI is considered to be a Joint Employer?	See answer to Question 1.
19	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	Despite the near total lack of control the FI has over a consumer and its employment of its PAS, without any amendment of the aforementioned statutory language and regulatory constraints, DOH has decided that it will require FIS responding to the RFO to assume joint employment status and assume all risk of potential loss arising from such joint employment status. How can FIS be expected to accept these risks, which will make them, not the consumer, the primary target of all types of claims and lawsuits?	See answer to Question 1.
20	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	The question of joint employment is typically determined by a test, generally applied by the Courts. The Fair Labor Standards Act (FLSA) uses the economic realities test, while the common law test is utilized by the IRS and, notably, the Affordable Care Act (ACA). Further, tort law and liability law often present a different standard entirely. The USDOL went out of its way to note that FIs may or may not be joint employers, depending on their individual circumstances. The IRS stated in their regulations on the ACA that entities who do not control recruiting, hiring, training, supervising, or termination of workers are not joint employers, and some FIs have letters confirming that they are not joint employers for purposes of the ACA. Indeed, Social Services Law 365-f specifically prohibits FIs from performing most employer activities, and all activities included in the common law test. • With this in mind, under what standard does the Department of Health expect Fiscal Intermediaries to be a joint employer, and what is the legal rationale for this determination?	See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**  
**JOINT EMPLOYER**

Question Number	RFO Reference	Question	Answer
21	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	<p>The question of joint employment is typically determined by a test, generally applied by the Courts. The Fair Labor Standards Act (FLSA) uses the economic realities test, while the common law test is utilized by the IRS and, notably, the Affordable Care Act (ACA). Further, tort law and liability law often present a different standard entirely. The USDOL went out of its way to note that FIs may or may not be joint employers, depending on their individual circumstances. The IRS stated in their regulations on the ACA that entities who do not control recruiting, hiring, training, supervising, or termination of workers are not joint employers, and some FIs have letters confirming that they are not joint employers for purposes of the ACA. Indeed, Social Services Law 365-f specifically prohibits FIs from performing most employer activities, and all activities included in the common law test.</p> <p>Did the Department consider whether it could accomplish its goals through other methods, such as banning FIs from considering PAs independent contractors?</p>	This question is not relevant to the development of an offer under this RFO.
22	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	<ul style="list-style-type: none"> <li>• “Wage parity”, through Article 36 of the public health law, mandates wage and benefit levels that must be paid to workers. Further, the new reimbursement specifically reimburses FIs for direct care costs, establishing what the wages and benefits they offer are with no reasonable room for modification. The interpretations of the Wage and Hour Division of the U.S. Department of Labor in Administrator’s Interpretation 2014-2 clearly indicate that, “These situations, in which the consumer and any private third party do not have any discretion in adjusting the wage earned by the home care worker, should be considered a strong indicator that the public entity is an employer.” The Interpretation goes on to note that in instances where the reimbursement is so low as to only accommodate mandatory expenses by the FI, it would be interpreted as the public entity setting the wage rate. This interpretation would indicate that this new reimbursement methodology would make the DOH or managed care plan, not the FI, the joint employer if one existed. Using USDOL’s interpretation, since the FI will only be passing along payments for direct care at levels established by other parties, and fulfills no other role of the employer, what justification is used for the State to deem the FI to be a joint employer, even through the economic realities test?</li> </ul>	See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**  
**JOINT EMPLOYER**

Question Number	RFO Reference	Question	Answer
23	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-	<ul style="list-style-type: none"> <li>Has the Department factored in the range of new liability and tort issues that FIs would need to account for, including increased holdings for lawsuits for legal actions between the consumer and the PA for which the FI is now liable, the provision of typical employee insurances such as comprehensive property and casualty insurance in the event that the PA damages property or lives that is not the consumers, and more?</li> </ul>	<p>See answer to Question 1.</p> <p>See also to "Payment" Questions and Answers, Question 1.</p>
24	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment	<ul style="list-style-type: none"> <li>Will the state be requiring that liability insurance companies provide coverages to FIs in the event that such coverage for the actions of individuals who are their employees but whom they cannot fire or otherwise control the employment conditions of is unable to be purchased? Will similar policies be made available for sexual harassment and discrimination claims arising from such issues?</li> </ul>	<p>FIs are required to obtain their own liability insurance coverage.</p> <p>See answer to Question 1.</p>
25	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment	According to this section agreeing to be a joint employer includes "Coordinating PA benefits, including annual leave, health insurance and employee benefits as applicable," are the Offerors required to give health insurance to PA's?	<p>See answer to Question 1.</p>
26	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	Has consideration been given to the fact that the Lead FI is being asked to be a 'joint employer', with the Consumer for a Personal Assistant (PA) that the FI does not have the responsibility to hire, supervise, discipline or terminate? How would a Lead FI handle suspension and or termination of a PA in a case where fraud is suspected? Additionally, the Lead FI will be responsible for PFL and FMLA claims for a PA who may be working for multiple Consumers with multiple Lead FIs thereby making it difficult for the FI to track hours worked.	<p>See answer to Question 1.</p> <p>See also "Fiscal Intermediary Program Expectations" Questions and Answers, Question 60.</p>
27	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	Subsection "e" uses the term "employer of record". That term appears to be, at best, a holdover from early materials after the establishment of the Consumer Directed Program. The term has no legal meaning. It should be stricken from the RFO. In addition, what is necessary for program performance is that the FI ensure that the listed items are completed and submitted on a timely basis and assume responsibility for the fulfillment of the obligations associated with those registrations. Please clarify that the FI does not need to complete those forms in the name of the FI.	<p>The Lead FI is responsible for listing themselves as the employer on all applicable forms.</p>

**RFO #20039 QUESTIONS AND ANSWERS**  
**JOINT EMPLOYER**

Question Number	RFO Reference	Question	Answer
28	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	"Offerors and successful Contractors accept and acknowledge their role as Fiscal Intermediary is that of a joint employer, with the CDPAP consumer, of the personal assistant (PA)." The existing CDPAP law/regulations do not expressly provide that FIs are required to be joint employers of a consumer's employees, known as PAs. Rather, they expressly state that the FI's services are performed "on behalf of the consumer to facilitate his or her role as the employer." What does this change in role/status of the FI where they are expected to be a joint employer mean in terms of legal responsibility and liability?	See answers to Questions 1 and 3.
29	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment	As a joint employer - specifically with regards to the mandatory Sexual Harassment in-service - who is responsible to provide the in-service to the PAs? Do Lead FIs have a responsibility to educate the Consumer as a co-employer?	See answer to Question 1.  RFO Section 4.2(d) encourages, as a best practice, FI's providing training for consumers to assist them in their role as an employer.
30	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	Can an FI, without any possible means of control, be held liable for hours worked beyond a consumer's authorized hours, such as "informal support" hours, "on call" and "engaged to wait" hours, "shopping" hours before or after work, job-related training hours, and hours driving a consumer to a specific destination, which may not even be recorded, but can be claimed by a PA, subjecting the FI to the payment of unauthorized hours worked, an additional 100% of that amount as liquidated damages under New York Labor Law, interest and other penalties? (Note: An FI does not receive the consumer's plan of care and is not privy to the home health services the consumer needs, requests or are provided at their direction — only the consumer knows.)	See answer to Question 1.  The LDSS or MCO determines and authorizes CDPAP hours. Lead FIs are responsible for maintaining records of CDPAP members' authorized hours of care.  Consistent with the CDPAP Medicaid program, the consumer is responsible for managing their own plan of care, which reflects the authorized hours determined by the LDSS or MCO, and for scheduling and supervising PA's hours and approving their timesheets. Only the hours that are authorized by the LDSS or MCO are billable and payable under the CDPAP Medicaid program. The consumer is responsible for payment of any hours the consumer directs or permits the PA to work that are in addition to or beyond the hours or services authorized by the LDSS or MCO.
31	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	"Offerors and successful Contractors accept and acknowledge their role as a Fiscal Intermediary is that of a joint employer, with the CDPAP consumer, of the personal assistant (PA). Refer to the acknowledgement language in Attachment B, a copy of which must be signed and submitted with every offer. Lead FIs are signing a Joint Employer acknowledgment form; are they no longer considered a Third-Party Fiscal Intermediary? In submitting the offer, can other information and data be included to highlight the agency's experience and ability to serve consumers? It is not an actual requirement in the RFO, but it does reveal much about the agency's performance.	See answer to Question 1.  See RFO Section 4.2 Best Practices. In carrying out the specific duties described in Section 4.1, Lead FIs may use creative approaches in delivering high quality FI services that best meet the needs of consumers. This information would be included in the Offeror's technical narrative as outlined in RFO Section 6.2.

**RFO #20039 QUESTIONS AND ANSWERS**  
**JOINT EMPLOYER**

Question Number	RFO Reference	Question	Answer
32	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment	What is FI course of action to address fraud and not be held liable? (for Consumer FI joint employers)	See answer to "Fiscal Intermediary Program Expectations" Questions and Answers, Question 60.
33	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	Can an FI be allowed to control a consumer's scheduling of its personal assistants' hours, where such scheduling requires the personal assistant to work significant overtime or "spread" or "split" shifts, which can substantially add to the cost of payrolling a PA? (Note: If a per person/per month reimbursement scheme is eventually imposed, it becomes even more critical for an FI to understand whether it can cost-effectively service a consumer who schedules its PAS for significant overtime or "spread" or "split" shifts.)	See answer to Question 5.
34	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	Can an FI be held liable and subject to penalty under federal and NYS laws that apply to employers with a certain minimum number of employees, such as the Affordable Care Acts penalties for not providing workers with acceptable health insurance under that Act? (Note: Under ERISA, PAS can be considered eligible participants in any self-funded health care plan and in any retirement or 401 (k) plan of the FI that covers its management or staff employees, and may also be considered members of a "controlled group" for retirement plan purposes with a company related to the FI.)	See answer to Question 1.
35	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	Can an FI be held liable when a consumer's PA injures, intentionally or otherwise, the consumer or a member of the consumer's family, guests, or even bystanders at whatever location the PA is performing services for the consumer? Or when the PA is harassed by anyone based on the protected classes covered by anti-discrimination laws?? (Note: The FI does not know whether the PA's workplace, i.e. the consumer's home, the consumer's or worker's car, or elsewhere, is safe or secure for the consumer or the worker — only the consumer knows. Nor can the FI take meaningful steps to ensure such safe and secure conditions. What is more, workplace harassment, discrimination and retaliation law was changed in 2019 to make it far easier for any worker to make out and file a claim.)	See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**  
**JOINT EMPLOYER**

Question Number	RFO Reference	Question	Answer
36	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	Can an FI, at other than at prohibitive cost, obtain comprehensive property and casualty and other business insurances to cover the risks of injury to consumers and others present in whatever locations the PA is providing services to the consumer or will an insurer deny coverage of a claim once it determines that the FI was barred from direction and control over the PA or the hiring or firing of the PA, the location at which services were provided, or any way of protecting against the risks to the consumer, a member of the consumer's family, guests or bystanders? (Note: Unlike a Professional Employer Organization (PEO), a FI has no ability to transfer these risks to the primary employer, in this case, the consumer.)	See answer to Question 1.
37	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment	Will DOH issue guidance on joint employer responsibility with regards to supervision of PA (i.e. terminations based on fraud, performance, and non-compliance, etc..)?	See answer to Question 1. See also "Fiscal Intermediary Program Expectations" Questions and Answers, Question 60.
38	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment	Will the joint employer be allowed to have more oversight and implement preventive measures to reduce risks associated with workers compensation, fraud, and compliance with State and Federal regulations?	See answers to Questions 1 and 5.
39	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment	As a joint employer, can the lead FI be allowed to manage the consumer's schedule to reduce overtime costs?	See answer to Question 5.
40	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment	Who is the employer for the PA? what information will be on the employee's payroll information when asked what company they work for?	The Lead FI is responsible for listing themselves as the employer on all applicable forms.
41	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment	If an FI subcontracts with multiple Lead FIs and all the Lead FIs are awarded a contact. Who is the joint employer, the Lead FI and the Consumer only or is the subcontractor also a joint employer?	The Lead FI and the consumer are joint employers. See also RFO Section 5.7 Subcontracting.

**RFO #20039 QUESTIONS AND ANSWERS**  
**JOINT EMPLOYER**

Question Number	RFO Reference	Question	Answer
42	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment	In Section 4.3, is NYSDOH aware that joint employer status will erode the intent of consumer direction?	See answer to Question 1.
43	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment	At what point, in the case of fraud or abuse, does the FI have the ability to fire the caregivers?	See answer to Question 5. See also "Fiscal Intermediary Program Expectations" Questions and Answers, Question 60.
44	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment	If the FI is considered joint employer, does that mean that the FI must comply with Affordable Care Act?	See answer to Question 1.
45	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment	Confirm that Lead FIs can include policies and procedures and other initiatives it intends to implement as a "joint employer" once awarded the contract.	A list of the titles of policies and procedures should be submitted within the technical narrative related to the operation of the Fiscal Intermediary and the fiscal intermediary fulfilling all responsibilities under this RFO and resulting contract.
46	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment	Since the Lead Fiscal Intermediary will now be a joint employer, who will be required to provide sexual and other harassment training?	See answer to Question 1.
47	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment	Why does the Department require Fiscal Intermediaries become a joint employer? Is the Department aware that joint employer status will erode the intent and integrity of consumer directed services?	See answer to Question 1.
48	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment	Since the Lead Fiscal Intermediary will now be a joint employer, who will be required to notify consumers and personal assistants of any information in connection with an emergency and emergency preparedness?	The FI is responsible for informing the consumers and PAs of how they will continue to discharge their duties as an FI during an emergency.

**RFO #20039 QUESTIONS AND ANSWERS**  
**JOINT EMPLOYER**

Question Number	RFO Reference	Question	Answer
49	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment	Why were participants at the Stakeholder Workgroup held over Summer 2019 not provided an opportunity to discuss the impacts and recommendations for or against joint employer status?	This question is not relevant to the development of an offer under this RFO.
50	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment	Who instructed the Department to mandate Fiscal Intermediaries become joint employers?	See answer to Question 1.
51	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment	Page 9, Section 4.3, please clarify if amendments or changes will be considered to the Joint Employment requirements or attestation?	The Department has not amended the joint employment requirements or attestation in the RFO.
52	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	<ul style="list-style-type: none"> <li>The Stakeholder Workgroup was Legislatively mandated to "...inform the criteria for use by the Department for the selection of entities..." as FIs. At no point during the four meetings of the Stakeholder workgroup, in any complementary materials for the meetings, or in the final recommendations that the Stakeholder Workgroup provided comments on, was the issue of joint employment ever discussed. Can the Department identify and clarify why this topic was not discussed among the legally required Stakeholder Workgroup, and why the workgroup was not provided an opportunity to provide input on the implications of such a designation?</li> </ul>	This question is not relevant to the development of an offer under this RFO.
53	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment	If the consumer is a co-employer, is he/she entitled to any portion of the revenue generated by the employee?	No.
54	Section 5.4: Payment (Page 14 of RFO)	Since Lead FIs will be considered "joint employers", will DOH mandate that Lead FIs be reimbursed by MLTCs and DOH for all wage and hour obligations including overtime and spread of hours/split shift?	See answer to Question 5.

**RFO #20039 QUESTIONS AND ANSWERS**  
**JOINT EMPLOYER**

Question Number	RFO Reference	Question	Answer
55	General	On page 30 of the RFO (Attachment B, Joint Employment Attestation), the Offeror must acknowledge that its role as Fiscal Intermediary (FI) is that of a joint employer. The FI thus assumes all the liability of an employer. However, on page 8, paragraph 1 a-g of Section 4.1, the FI also acknowledges that it has no control over certain employer responsibilities which are the sole responsibility of the consumer. This creates the potential for the FI to be held liable in some situations for the consumer's employment practices despite having no ability to affect such practices in any way. Can an FI, without any possible means of control, be held liable for hours worked beyond a consumer's authorized hours, such as ""informal support"" hours, ""on call"" and ""engaged to wait"" hours, ""shopping"" hours before or after work, job-related training hours, and hours driving a consumer to a specific destination, which may not even be recorded, but can be claimed by a PA, subjecting the FI to the payment of unauthorized hours worked, an additional 100% of that amount as liquidated damages under New York Labor Law, interest and other penalties?	See answers to Questions 1 and 30.
56	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Can an FI be subject to a union's claim at the National Labor Relations Board that the PAs should be added to an existing bargaining unit of home care employees, or a union's request that a "neutrality agreement" be signed allowing the union to organize the PAs without opposition, or an organizing drive by any union that may seek to become the exclusive bargaining representative of the PAs?	Any compliance obligations under federal law that may arise out of the joint employer attestation should be evaluated by an offeror with its labor and employment counsel.
57	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	Can an FI be subject to a union's claim at the National Labor Relations Board that the PAS should be added to an existing bargaining unit of home care employees, or a union's request that a "neutrality agreement" be signed allowing the union to organize the PAS without opposition, or an organizing drive by any union that may seek to become the exclusive bargaining representative of the PAs? (Note: A union collective bargaining agreement may require the FI to adhere to set wage rates and benefits for PAS, with no flexibility, and commit to fixed contribution rates to the union's labor-management trust funds.)	Any compliance obligations under federal law that may arise out of the joint employer attestation should be evaluated by an offeror with its labor and employment counsel.
58	General	Is there a union and if so, what union is associated with the program employees? What percentage of employees are with the union?	Any obligations under federal law that may arise out of the joint employer attestation should be evaluated by an offeror with its labor and employment counsel.
59	General	How many FMLA clients they have on average per year?	Any compliance obligations under federal law that may arise out of the joint employer attestation should be evaluated by an offeror with its labor and employment counsel.
60	General	With respect to processing benefits under the Family and Medical Leave Act (FMLA)- how is FMLA meant to work within the CDPAS program?	Any compliance obligations under federal law that may arise out of the joint employer attestation should be evaluated by an offeror with its labor and employment counsel.

**RFO #20039 QUESTIONS AND ANSWERS**  
**PAYMENT**

Question Number	RFO Reference	Question	Answer
1	General	How is the reimbursement for the Lead FI determined?	<p>Please see RFO Section 5.4 Payment. Current rates are determined in accordance with 18 NYCRR 505.28 and are published on the Department's website.</p> <p>The Department is currently proposing to change the rate methodology per draft regulations posted in the State Register on December 31, 2019.</p> <p>Rates for services provided through MCOs are negotiated between the Lead FI and the MCO.</p>
2	General	At the same time that this RFO was issued, DOH also proposed a regulation that would establish a per member per month (PMPM) payment for an FI's administration expenses. Was this new PMPM payment change considered in the development of the RFO, which includes new responsibilities and tasks for FIs?	See answer to Question 1.
3	General	I'm an out of state consumer directed service provider and interested in starting a program in New York. I've been searching the site and I can't find the pay scale. How much does a provider make per unit/hour, and is it located anywhere on the website?	See answer to Question 1.
4	General	Does the State anticipate the CDPAP program to be subject to any Value-Based Payment Reform and if so what roles and responsibilities are expected of MLTCs, Lead FIs, Subcontracted Collaborators to the Lead FIs, PAs and Consumers with respect to administering a CDPAP-specific Value-Based Payment program?	Value based payment arrangements are between plans and providers. Any contracts between plans and providers may contain VBP provisions.
5	General	In numerous places throughout the RFO, the Department, in language consistent with 18 NYCRR 505.28, identifies that it is the responsibility of the Lead FI to "establish" the amount of wages. In other locations, particularly when speaking to what a Lead FI must do and what a Collaborating Partner may not, the RFO speaks to the fact that the Lead FI shall "set" wages. While these words are close in meaning, there are important differences. Will the Department change the language throughout the RFO to ensure that it is consistent with the regulations throughout?	For purposes of the RFO the words "establish" and "set" are used interchangeably. To the extent additional guidance is necessary, please defer to the language in the regulation.

**RFO #20039 QUESTIONS AND ANSWERS**  
**PAYMENT**

Question Number	RFO Reference	Question	Answer
6	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Will the State offer compensation to FIs who incur significant cost to maintain provision and quality of care for CDPAP consumers throughout the course of this program transition?	See answer to Question 1.
7	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	How will payments for services rendered to the Consumer be administered through the Lead FI or subcontracting FI?	Each offer may only include one Lead FI which will be required to fulfill all program and contractual requirements. Collaborating partners, as subcontractors, may not bill Medicaid, Managed Care Plans, Consumers, or PAs for services provided in relation to an award under this RFO.
8	Section 2.1: Background Information (Page 5 of RFO)	Paragraph 1: Can DOH provide the average annual dollar amount of a CDPAP consumer's authorized services?	This question is not relevant to the development of an offer under this RFO.
9	Section 2.1: Background Information (Page 5 of RFO)	Paragraph 1: What is the total amount of annual CDPAP service expenditures?	This question is not relevant to the development of an offer under this RFO.
10	Section 2.1: Background Information (Page 5 of RFO)	Paragraph 1: What is the current FI service claim reimbursement cycle time through eMedNY?	This question is not relevant to the development of an offer under this RFO.
11	Section 2.1: Background Information (Page 5 of RFO)	Paragraph 1: What is the first pass denial rate for service claims submitted by the current FIs?	This question is not relevant to the development of an offer under this RFO.
12	Section 2.1: Background Information (Page 5 of RFO)	Paragraph 1: Will CDPAP consumers be given full budget authority? If so, will they be able to select other goods and services from the same budget?	This question is not relevant to the development of an offer under this RFO.
13	Section 2.1: Background Information (Page 5 of RFO)	Paragraph 1: How will DOH handle denials that result from other service provider actions pertaining to service authorizations (for example, a denial resulting from a retroactive adjustment to a service authorization)?	This question is not relevant to the development of an offer under this RFO.
14	Section 3.2: Collaborations (Pages 6-7 of RFO)	If we are a collaborating partner and we pay more per hour than the Lead FI does the PA rate decrease?	PA wages are established by the Lead FI.

**RFO #20039 QUESTIONS AND ANSWERS**  
**PAYMENT**

Question Number	RFO Reference	Question	Answer
15	Section 5.4: Payment (Page 14 of RFO)	If we are a collaborating partner and we pay more per hour than the LEAD FI does the PA rate decrease?	See answer to Question 14.
16	Section 3.2: Collaborations (Pages 6-7 of RFO)	In differentiating between the Lead FI and collaborating partners (Section 3.2, first and second paragraphs): Is there an additional incentive provided to Lead FI's for taking on the liability and responsibility, such as additional administrative reimbursement?	See answer to Question 1.
17	Section 3.2: Collaborations (Pages 6-7 of RFO)	Regarding "collaborating partners, as subcontractors, may not bill..." (Section 3.2, third paragraph): a) does this mean that collaborating partners may not offer private pay contracts? b) Can a Lead FI provide CDPAP as a private pay service?	The CDPA Program is specifically a Medicaid program. Collaborating partners who are otherwise authorized to provide personal care services may do so outside of CDPAP.
18	Section 4.0: Fiscal Intermediary Services (Pages 7-13 of RFO)	18 NYCRR § 504.3(e) and the Office of Medicaid Inspector General (OMIG) audit protocol #3 both state services billed cannot exceed authorization. Does the FI have the right to deny payment to PAs for time submitted as worked if the verified times exceed the authorization even though services were provided and verified by the Consumer? If not, will the cost of these hours be reimbursed pursuant to your answer to question #23 above.	See "Joint Employer" Questions and Answers, Question 30.
19	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	If a consumer trains a personal assistant during a time that personal assistant is not on shift, is the personal assistant's time spent being trained payable by the FI and/or reimbursable by Medicaid?	See answer to Question 1.
20	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Is overtime expense payable? May the FI alert a consumer that the occurrence of overtime expense is not permitted or prohibit it in the consumer agreement?	SSL Section 365-f prohibits Fiscal Intermediaries from recruiting, hiring, scheduling, training, supervising or terminating PAs or managing the Consumer's authorized plan of care. Dictating the number of hours a Personal Assistant can work and refusing lawful overtime pay can infringe on the Consumer's ability to schedule the Personal Assistant of their choice.
21	Section 4.2: Best Practices (Page 8 of RFO)	If an FI identifies creative best practices in its RFO response, what is the obligation to implement these practices if chosen for a contract? Will the contract negotiation take these practices into account when setting reimbursement rates?	The offer submitted becomes part of the binding contract as Appendix C. Failure to provide the services as included in the offer may be considered a breach of contract.  See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**  
**PAYMENT**

Question Number	RFO Reference	Question	Answer
22	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	If the caregiver makes that decision, how is he/she constrained to pay less than the reimbursement rate?	PA wages are established by the Lead FI.
23	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	Bullet f: Please confirm that the costs of benefits (for example, insurance or vacation) is to be covered by the Contractor using the PMPM fees. If benefits are to be reimbursed through a separate fund, please describe the process for claiming and reimbursement through such fund.	See answer to Question 1.
24	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	RFP Section 4.3 f: "Coordinating PA benefits, including annual leave, health insurance and employee benefits as applicable;" The FI's must provide health insurance? How much "annual leave" accrues per PA and must a certain amount of hours be worked?	See answer to Question 1. See also "Joint Employer" Questions and Answers, Question 1.
25	Section 4.7: Quality Monitoring and Reporting Requirements (Page 11 of RFO)	The RFO states, "In addition to the information and data identified above, the Contractor will be required to cooperate with other efforts by the Department to assess FI services under the CDPAP including conducting a consumer satisfaction survey." Will reimbursement rates take additional reporting requirements into account?	See answer to Question 1.
26	Section 5.4: Payment (Page 14 of RFO)	Is their fixed FI reimbursement rate? If so, what is the established rate?	See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**  
**PAYMENT**

Question Number	RFO Reference	Question	Answer
27	Section 5.4: Payment (Page 14 of RFO)	How is overtime and travel time managed? Are caregivers allowed to serve multiple participants? If so, who is responsible for paying overtime and travel time?	<p>A PA may serve multiple CDPAP consumers.</p> <p>The Lead FI is responsible for paying wages including any overtime accrued in accordance with applicable state and federal laws and regulations.</p> <p>Travel time is determined in accordance with state and federal rules. See, for example: <a href="https://www.dol.gov/whd/regs/compliance/whdfs22.pdf">https://www.dol.gov/whd/regs/compliance/whdfs22.pdf</a></p>
28	Section 5.4: Payment (Page 14 of RFO)	Once Lead FIs are selected, will a new rate be set for NYS? Or should the FIs expect to receive their current rates?	See answer to Question 1.
29	Section 5.4: Payment (Page 14 of RFO)	Paragraph 2: Will the Department advance funding for PA payroll or allow the FI to pay against a state bank account?	No.
30	Section 5.4: Payment (Page 14 of RFO)	What are the reimbursement rates that are being offered to Lead FIs by the state? Does the Lead FI set the reimbursement rates for their subcontractors?	See answer to Question 1.
31	Section 5.4: Payment (Page 14 of RFO)	Paragraph 2: Given the FI will be the employer of record for the PAs, what assurances can DOH provide that emergency funding will be made available to the FI for payroll in the event properly submitted service claims are not reimbursed timely through eMedNY?	The timeliness of eMedNY reimbursement is not relevant to the development of an offer under this RFO.
32	Section 5.4: Payment (Page 14 of RFO)	Paragraph 4: How often does DOH expect to re-assess FI administrative rates?	See answer to Question 1.
33	Section 5.4: Payment (Page 14 of RFO)	Paragraph 4: How much notice will DOH provide the FIs when FI administrative rates are changed?	See answer to Question 1.
34	Section 5.4: Payment (Page 14 of RFO)	Paragraph 4: Can DOH provide the methodology currently used to determine FI rates?	See answer to Question 1.
35	Section 5.4: Payment (Page 14 of RFO)	Paragraph 4: What is the total amount of annual fiscal intermediary administrative payments for 2019 statewide and by district?	This question is not relevant to the development of an offer under this RFO.
36	Section 5.4: Payment (Page 14 of RFO)	Paragraph 4: Are current FIs allowing PAs to take advantage of the Difficulty of Care income exclusion?	The Department does not comment on federal income tax requirements.

**RFO #20039 QUESTIONS AND ANSWERS**  
**PAYMENT**

Question Number	RFO Reference	Question	Answer
37	Section 5.4: Payment (Page 14 of RFO)	There is a current long-time methodology in place as per regulation 505 regarding cost reporting and Medicaid rate generation. However, the Department is proposing a significant change in the cost report methodology which is likely to result in a potentially profound reduction of reimbursement for the program. There are several new costs associated with the program outlined throughout the RFO including but not limited to “joint employer” status; increase quality monitoring and reporting activities; EVV as mandated by the federal regulations; creation of e-mail or website portals for coordination with Consumers; and potential subcontract relationships, etc. Will the changes generated by this RFO be reflected in the new cost report methodology? A. What compensation method does the Department propose for these additional costs, risks, liabilities and responsibilities? B. Please provide clarification of the change in responsibility and increase in liability outlined in the RFO as well as additional administrative functions and how the Department’s proposal regarding the three-tiered per member per month reimbursement for FI’s administrative costs which would result in significant cuts to the administrative costs to FIs will account for these significant added responsibilities.	See answer to Question 1.
38	Section 5.4: Payment (Page 14 of RFO)	Section 5.4 identifies how administrative payments will be made; but, does not discuss how payments for direct care services will be addressed. How does the Department of Health propose to pay direct care rates as per this contract?	See answer to Question 1.
39	Section 5.4: Payment (Page 14 of RFO)	Please detail how the wages, FICA, direct costs, etc. are to be reimbursed, and to who are they reimbursed, the Lead FI or subcontractor.	Reimbursement runs through the Lead FI. See answer to Question 1.
40	Section 5.4: Payment (Page 14 of RFO)	Will there be additional reimbursements available to FI secondary to the increase in responsibilities, risks and liabilities outlined in the RFO?	See answer to Question 1.
41	Section 5.4: Payment (Page 14 of RFO)	Who is determining the rate structure ? the MLTC's or DOH? and Why? And on what basis is that rate structure being evaluated to pre-determine a rate? Will the profit margins be more or less than 20%?	See answer to Question 1.
42	Section 5.4: Payment (Page 14 of RFO)	Under Section 5.4, how are rates set for in fee for service Medicaid	See answer to Question 1.
43	Section 5.4: Payment (Page 14 of RFO)	Can a subcontractor be paid directly from a health plan?	Not for the provision of services pursuant to the RFO. Subcontractors will be paid by the Lead FI in accordance with their subcontracting agreements.

**RFO #20039 QUESTIONS AND ANSWERS**  
**PAYMENT**

Question Number	RFO Reference	Question	Answer
44	Section 5.4: Payment (Page 14 of RFO)	What is the rate going to be?	See answer to Question 1.
45	Section 5.4: Payment (Page 14 of RFO)	What will be the reimbursement structure in the scenario where there is a Lead FI and a subcontracting FI? Will both be eligible from reimbursement from the State?	See answer to Question 1. RFO Section 3.2 states: "Collaborating partners, as subcontractors, may not bill Medicaid, Managed Care Plans, Consumers, or PAs for services provided in relation to an award under this RFO."
46	Section 5.4: Payment (Page 14 of RFO)	How will Fiscal Intermediaries be reimbursed for direct care wages? Will there be a billing/invoice process for direct wages in addition to administrative costs? Will this billing/reimbursement process be submitted jointly or separately?	See answer to Question 1.
47	Section 5.4: Payment (Page 14 of RFO)	Section 5.4 suggests that we can still bill straight Medicaid without this RFO? But elsewhere, the RFO seems to suggest that no one can perform FI services without being approved through this RFO	Per RFO Section 2.0, "Current FIs that respond to the RFO as a Lead FI or collaborating partner may continue to provide FI services during the selection process and until further notice provided by the Department."
48	Section 5.4: Payment (Page 14 of RFO)	Section 5.4 Payment – second paragraph. This references reimbursement for administrative costs, why doesn't it state administrative and direct care cost? How will direct care costs be reimbursed in FFS?	See answer to Question 1.
49	Section 5.4: Payment (Page 14 of RFO)	What is and how can the administrative cost for a "subcontractor" be split if you are a leading FI. Essentially how are subcontractors compensated? Per hour, flat rate. Who determines this? With high overheads would this be feasible?	Contractors are subject to the requirements in the RFO. The terms of the RFO do not dictate the payment structure between the Lead FI and the subcontractors.
50	Section 5.4: Payment (Page 14 of RFO)	Does the State's 1% Medicaid reduction apply to the PMPM payment amount? In what way? What are the components of the PMPM payment? Does the 1% reduction also apply to the direct costs?	This question is not relevant to the development of an offer under this RFO.
51	Section 5.4: Payment (Page 14 of RFO)	How will the DOH treat PMPM payments during retrospective claim reviews? In other words, if only one particular date of service in a given month is not supported (i.e., time and attendance records do not exist for a given day), will the DOH seek to recover only a pro rata share of the PMPM amount (e.g., 1/30th)? Would the DOH seek to recover the overpayment from the lead agency?	This question is not relevant to the development of an offer under this RFO.
52	Section 5.4: Payment (Page 14 of RFO)	(Page 14, Section 5.4, paragraph 3) "Fiscal Intermediaries contracted by the Department through this RFO will be qualified to enter contracts with the MCOs. The terms of these contracts shall be consistent with State laws, rules and applicable guidance." – will the State please clarify if this language indicates that MCO's payments to FI's must be the same as with the State?	See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**  
**PAYMENT**

Question Number	RFO Reference	Question	Answer
53	Section 5.4: Payment (Page 14 of RFO)	Is the percentage of the PMPM total that a lead agency shares with non-lead entities discretionary?	The terms of the RFO do not dictate the payment structure between the Lead FI and the subcontractors.
54	Section 5.4: Payment (Page 14 of RFO)	How can an FI contract to do this Program without knowing the actual rate of pay?	See answer to Question 1.
55	Section 5.4: Payment (Page 14 of RFO)	A NYC Lead FI could have many thousands of accounts that the collaborators "underneath" them, have provided ... Do you have an idea of what an additional fee would be for the administrative and billing costs? Capitated? Shouldn't this be known in your RFO?	See answer to Question 1.
56	Section 5.7: Subcontracting (Pages 15-16 of RFO)	The RFO includes a number of new mandatory responsibilities for FIs. Will the Department be reexamining the rate methodology proposed for reimbursement of administrative costs?	See answer to Question 1.
57	Section 6.3: Cost Offer (Page 26 of RFO)	<p>In Section 6.3. Cost Offer indicates that "Offerors are not required to submit a Cost Offer" and will be solely scored based on their Technical Offer – will the State please clarify if this language indicates what pricing methodology will be to calculate rates?</p> <p>a. The RFO states that Entities under contract with the Department for FI services will not need an additional contract with the respective counties. Does this mean the county approval (form submitted to the state to request an FI be added so Cost report can be completed) and rate setting (county cost report submission) process will be retired? If so, has the Department established a new rate setting process?</p> <p>b. Will individual counties/entities in the State continue to individually bid CDPAP business?</p>	<p>See answer to Question 1.</p> <p>Entities under contract with the Department for FI services will not be required to enter into additional contracts directly with LDSS to serve CDPAP fee-for-service members located in counties in their authorized service area.</p> <p>The requirement of Lead FIs to submit cost reports does not change. Cost report information is used for rate setting purposes. The Department will disseminate guidance with respect to the submission of such cost reports.</p>
58	Section 4.6: Fiscal Monitoring and Oversight Requirements (Pages 10-11 of RFO)	Can the state provide samples/templates with instructions of the Annual Direct Care and Administrative Cost reports to be submitted by Contractors to the State which reflect the expected content and formats?	A copy of the current Cost Report and Instructions for submission is located on the RFO website for reference purposes.

**RFO #20039 QUESTIONS AND ANSWERS**  
**PAYMENT**

Question Number	RFO Reference	Question	Answer
59	Section 4.7: Quality Monitoring and Reporting Requirements (Page 11 of RFO)	Under RFO Section 4.7 with respect to quality monitoring and requirements, are these requirements in addition to the cost reports that are now mandatory for LHCSAs, CHHAs and FIs? a. What is the statutory and/or regulatory authority for mandating such reports? b. The Department should streamline reporting requirements to make provider compliance for reporting and Department review more efficient and economical. HCP has and continues to make a similar request with respect to the LHCSA Cost Report and Statistical Report. c. Please clarify the statement in this section of the RFO that the Department has the right to make any and all reports public. Some of the data requested to be reported such as census numbers, employee counts, referral numbers are proprietary in nature and a FI may not wish for those numbers to be made public.	Yes, these reporting requirements are in addition to the cost reports.
60	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	For subcontractors that meet the qualifications described in section 3.1 to deliver FI services, are their subcontracts with Contractors their only means of payment for services provided as a subcontractor? Is the rate or amount of such payment for services negotiated between the Contractor and subcontractor, or set in some other way? Are there any restrictions or limitations on such rates or amounts of payment?	<p>The payment to a subcontractor would be through their subcontract with the Lead FI. These payment amounts are negotiated between the contractor and subcontractor.</p> <p>Per RFO Section 3.2: "Collaborating partners, as subcontractors, may not bill Medicaid, Managed Care Plans, Consumers or PAs for services provided in relation to an award under this RFO."</p> <p>Other limitations exist that may apply to these arrangements, e.g., unacceptable practices, that should be considered when negotiating rates or amounts of payment to subcontractors.</p>
61	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	Is there a managing fee for the Lead FI for managing the sub FIs'?	See answer to Question 60.
62	Section 3.2: Collaborations (Pages 6-7 of RFO)	If the Collaborators are not billing Medicaid or MLTC the assumption is they will bill the Lead FI. Do they bill hourly or get a capitated rate?	See answer to Question 60.
63	Section 5.4: Payment (Page 14 of RFO)	How will the reimbursement for Lead FI and Subcontractor FI be determined?	See answer to Question 60.
64	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Who determines what the revenue rate will be to the sub FIs - the state or lead FI?	See answer to Question 60.

**RFO #20039 QUESTIONS AND ANSWERS**  
**PAYMENT**

Question Number	RFO Reference	Question	Answer
65	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Section 5.7 fails to state how the subcontractor will get paid and how much. Who decides how and the rate the subcontractor gets paid?	See answer to Question 60.
66	Section 3.2: Collaborations (Pages 6-7 of RFO)	Will there be guidance regarding how the Lead FI compensates the collaborating partner? Is it assumed that it will be a contractual relationship between the Lead FI and collaborating partner?	See answer to Question 60.
67	Section 6.2: Technical Offer, Subsection E (Pages 22-23 of RFO)	On page 22, Section E, Bullet point 1 states that the Lead FI will have to ensure that every subcontractor meets any prevailing wage requirements. Again, who is conducting payroll for the workers of a subcontractor FI? If the Lead FI is putting the workers of a subcontractor FI on its payroll, why would the subcontractor have any payroll certification requirements. On the other hand, if the State's intention is to have the subcontractor FI doing payroll for caregivers, please state so.	See answer to Question 60.  An organization is required to meet prevailing wage requirements for its employees.
68	General	Does the FI set Participant/Employers up with their own individual EIN or does the FI use an EIN established with the FI.	The Lead FI processes payroll through its EIN Number.

**RFO #20039 QUESTIONS AND ANSWERS**  
**FISCAL INTERMEDIARY PROGRAM EXPECTATIONS**

Question Number	RFO Reference	Question	Answer
1	Section 4.2: Best Practices (Page 8 of RFO)	For Section 4.2 Best Practices - does the statement "Such practices may include but are not limited to:" mean that an applicant must include items (a) - (f) in their offer?	<p>The decision to include any Best Practices in the response to the RFO is at the discretion of the Offeror.</p> <p>Best practices included in an RFO response by an Offeror, how those best practices are defined or described, or how the offeror indicates they will implement any of those best practices is at the discretion of the offeror. Accordingly, the Department does not have specific expectations of what these responses should or could entail and is not furnishing additional guidance.</p> <p>An offeror may include some, all, or none of the best practices identified in the RFO, and/or may include in its offer best practices that are not referenced in the RFO.</p> <p>A response to the RFO that includes Best Practices should include all information in the response to section F.2</p>
2	Section 4.2: Best Practices (Page 8 of RFO)	Related to Section 4.2 Best Practices, is the State expecting these items to be responded to in any specific ways which would impact in the State's eyes preferential selection/award?	See answer to Question 1
3	Section 4.2: Best Practices (Page 8 of RFO)	Is the adoption of "best practices" required to be included in the offer? How will best practices be evaluated and scored?	See answer to Question 1
4	Section 6.2: Technical Offer, Subsection F (Pages 23-26 of RFO)	Are "best practices" required to be included in the application (section F.2, page 24)? If not included, will this affect the technical evaluation/scoring of the application (sections 6.2, page 21, section F, page 23, and section 8.3, page 27) ?	See answer to Question 1
5	Section 4.2: Best Practices (Page 8 of RFO)	Are the practices listed in section 4.2 mandatory and are they expected to be reflected in our policy and procedure?	See answer to Question 1
6	Section 4.2: Best Practices (Page 8 of RFO)	The second sentence of section 4.2 states that "Such practices may include but are not limited to". The first sentence of section F.2 states: "will use any creative approaches . . . including but not limited to". Section 4.2 is discretionary. Section F.2 is mandatory. They are in conflict. What is the requirement?	See answer to Question 1

**RFO #20039 QUESTIONS AND ANSWERS**

***FISCAL INTERMEDIARY PROGRAM EXPECTATIONS***

Question Number	RFO Reference	Question	Answer
7	Section 4.2: Best Practices (Page 8 of RFO)	"Section 4.2(e) states that consumer advisory committees must be comprised of both LDSS and MCO staff. What role does the Department envision for LDSS staff, MCO staff, PAs, FI staff (except as liaisons) or other non-consumer on a body that is, by definition, for consumers to advise the FI?"	See answer to Question 1
8	Section 4.2: Best Practices (Page 8 of RFO)	<p>Section 4.2(e) states that consumer advisory committees must be comprised of both LDSS and MCO staff. Are other forms of consumer input acceptable besides a committee?</p> <p>For instance, if a FI makes sure that its Board of Directors is at least 50% occupied by consumers, would that constitute a consumer advisory committee?</p> <p>If the FI routinely surveys their consumers on policy issues critical to the consumers, and can demonstrate that they utilize the results of the surveys in their decision making, would that be acceptable?</p>	See answer to Question 1.
9	Section 4.2: Best Practices (Page 8 of RFO)	Section 4.2(e) states that consumer advisory committees must be comprised of both LDSS and MCO staff. If the Department wishes to keep non-consumers on the consumer advisory committee, this would require separate governmental entities and corporations to value independently the existence of a consumer advisory committee and agree to participate. Is the Department planning on requiring plans and LDSS commissioners to name staff to these committees? If not, how can a FI be held accountable for the unwillingness of the LDSS and/or MCO to fill a space on the committee?	See answer to Question 1.
10	Section 4.2: Best Practices (Page 8 of RFO)	Section 4.2(e) states that consumer advisory committees must be comprised of both LDSS and MCO staff. Do FIs need a separate consumer advisory committee for each region or territory they serve, or can they have one committee that represents consumers statewide, as long as they create a mechanism for consumers from around the state to access the meetings? Likewise, do representatives from all LDSS in the regions the FIs serve have to be represented? Does every plan with whom the FI contracts have to be represented?	See answer to Question 1.
11	Section 4.2: Best Practices (Page 8 of RFO)	In Section 4.2, why should consumer advisory committees include PAs, FI staff, MCOs and LDSS as members? Doesn't consumer-direction and a consumer advisory committee literally mean by and for consumers?	See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**

***FISCAL INTERMEDIARY PROGRAM EXPECTATIONS***

Question Number	RFO Reference	Question	Answer
12	Section 4.2: Best Practices (Page 8 of RFO)	In Section 4.2, why should consumer advisory committees include PAs, FI staff, MCOs and LDSS as members? Doesn't consumer-direction and a consumer advisory committee literally mean by and for consumers?	See answer to Question 1.
13	Section 4.2: Best Practices (Page 8 of RFO)	Regarding the need to establish a consumer advisory committee-will there be further guidance on what this committee should be reviewing and reporting on?	See answer to Question 1.
14	Section 4.2: Best Practices (Page 8 of RFO)	Section 4.2(e) sets forth that a consumer advisory committee should be established that includes PAs, FI staff, MCOs, LDSS and consumer representatives. Will MCOs be required to commit time and resources to be part of a committee?	See answer to Question 1.
15	Section 4.2: Best Practices (Page 8 of RFO)	What is the rationale for requiring PAs, FI staff, MCOs and LDSS as members of a consumer advisory committee?	See answer to Question 1.
16	Section 4.2: Best Practices (Page 8 of RFO)	How does the Department envision a consumer advisory committee retain an authentic input process for consumers when membership consists of all stakeholders?	See answer to Question 1.
17	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	Under RFO section 4.2(e), will FIs be reimbursed for and are they allowed to compensate a Designated Representative/PA/ or Consumer for attending Advisory Committee Meetings? Why would a member of an MCO or LDSS attend the meeting/how could this be arranged?	Contracted Lead FIs will receive payment for services as described in RFO Section 5.4.  Compensating members of the consumer advisory committee is at the discretion of the Lead FI, and should be done in compliance with other laws, rules or regulations that apply to the CDPAP provider apart from the RFO.
18	Section 6.2: Technical Offer, Subsection F.1 (Pages 23-24 of RFO)	Regarding F.2.A, are there supposed to be multiple visits to the Consumer? Are we supposed to provide peer support?	See answer to Question 1.
19	Section 4.2: Best Practices (Page 8 of RFO)	Section 4.2 Best Practices. Please define and provide more guidance on items a) define peer support/peer mentoring and counseling; b) conducting onsite visits with Consumer... by what level of staff? How frequently? Documentation requirements for visits?; c) What is expected during the face-to-face orientation of PA's?; e) establish Consumer advisory committee including LDSS and MCO staff, will the LDSS and MCO cooperate with staff attendance at these meetings? How frequently should such a committee meet? Will the FI be paid for the hours the PA attends the committee meetings?	See answer to Question 1.
20	Section 4.2: Best Practices (Page 8 of RFO)	Will FI website accessibility (i.e. the ability for people with disabilities to fully access the content of a FI's website) factor into the offer request?	Best practices will be factored into the evaluation of offers.

**RFO #20039 QUESTIONS AND ANSWERS**

***FISCAL INTERMEDIARY PROGRAM EXPECTATIONS***

Question Number	RFO Reference	Question	Answer
21	Section 4.2: Best Practices (Page 8 of RFO)	Offers are expected to conduct on-site visit(s) with consumers. How many times a year should the visits take place? Who should be conducting these visits (nurse, social worker, administrative staff)?	See answer to Question 1.
22	Section 4.2: Best Practices (Page 8 of RFO)	4.2.b-The FI Workgroup discussed the concept of on-site visits with Consumers and concluded that on-site visits with Consumers should not be specifically prescribed, but should be built into each FI's own individual compliance program. On-site visits can be staff-intensive, and therefore could be difficult to carry out over a wide geographic region and with regular frequency, given the proposed reductions in administrative reimbursement to FIs. Does the Department of Health have a minimum frequency of on-site visits that it would consider acceptable?	See answer to Question 1.
23	Section 4.2: Best Practices (Page 8 of RFO)	Under RFO Section 4.2(b), please define what "on-site visit" means. Is this on-site at the FIs office or in home?	See answer to Question 1.
24	Section 4.2: Best Practices (Page 8 of RFO)	Section 4(b) sets forth Best Practices for conducting onsite visits with the consumers. What does the DOH anticipate with this best practice? For example, is this service for ensuring that the Personal Assistant is providing proper services, that the Personal Assistant is providing the hours at the time and duration that they are approved? How often does the DOH think the onsite visits should be performed?	See answer to Question 1.
25	Section 4.2: Best Practices (Page 8 of RFO)	Subsection b-What is expected to be done and recorded during the onsite visit with consumers?	See answer to Question 1.
26	Section 6.2: Technical Offer, Subsection F.2 (Pages 24-25 of RFO)	Under the Best Practices section (page 24), what is the intent of providing onsite visits with consumers? Is it to provide orientation to the consumer's role as an employer (Section d) or to visit while the personal assistant is providing services or for some other reason?	See answer to Question 1.
27	Section 4.2: Best Practices (Page 8 of RFO)	Subsection c-Would a telehealth solution be accepted as "face-to-face"?	See answer to Question 1.
28	Section 4.2: Best Practices (Page 8 of RFO)	I notice now the DOH is allowing FI's with the consent of consumers conducting face-to-face orientation for PA's. This is a change from the original regulations where the Consumer did all the training and the FI stayed away. Could you explain why?	See answer to Question 1.
29	Section 4.2: Best Practices (Page 8 of RFO)	4.2 Best Practices item (c) states: "With the consent of consumers, conducting face-to-face orientation for PAs;" Can you elaborate on "orientation" for PAs - what items could be included and what items should not be included as to not infringe on the consumer's right to manage plan of care / PAs?	See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**

**FISCAL INTERMEDIARY PROGRAM EXPECTATIONS**

Question Number	RFO Reference	Question	Answer
30	Section 4.2: Best Practices (Page 8 of RFO)	Could you please clarify “face to face orientation”? With the consent of consumers, conducting face to face orientation for PAs	See answer to Question 1.
31	Section 4.2: Best Practices (Page 8 of RFO)	Under RFO section 4.2(c), should an FI have a generic form in the Consumer agreement which states ‘Any PA which I recognize to work for me I am allowing the FI or collaborating partner to meet with face to face to conduct an orientation regarding my care’?	See answer to Question 1.
32	Section 4.2: Best Practices (Page 8 of RFO)	4.2.c- Will face-to-face orientations of PAs be a requirement? Sections 4.2 has language to suggest that the best practices listed are not required, while Section F .2 is missing this optional language. Many FIs consider orientation to be a component of a PA's training, which is a responsibility of the consumer as detailed in statute and Section 4.1 of the RFO that describes Required Fiscal Intermediary Services.	See answer to Question 1.
33	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Why is peer mentoring not identified as a required Fiscal Intermediary service?	Social Services Law section 365-f(4-a)(b)(i)(B) does not make peer mentoring a required FI service. FI required services are described in SSL § 365-f (4-a)(a)(ii), 18 NYCRR § 505.28(i) and 10 NYCRR § 766.11(c)-(d). Peer mentoring is included as a best practice.
34	Section 4.2: Best Practices (Page 8 of RFO)	Social Services Law section 365-f(4-a)(b)(i)(B) identifies that the RFO should identify peer supports as a service the contractor must be able to provide, yet it is listed as a Best Practice instead of a Required Fiscal Intermediary Service. Why is peer mentoring or peer supports not identified as a required service consistent with statute?	See answer to Question 33.
35	Section 4.2: Best Practices (Page 8 of RFO)	RFP Section 4.2. a: “Providing a peer supports, including peer mentoring and counseling for consumers and their families in to assist in navigating their employer responsibilities.” Would peer supports have an opt-in to allow themselves to be revealed (HIPAA)?	Offerors should consult with their privacy policies and procedures under HIPAA and other applicable privacy laws to determine the appropriate types of consumer consents in these scenarios.
36	Section 4.0: Fiscal Intermediary Services (Pages 7-13 of RFO)	Is there an expectation that the clients and caregivers can be self-sufficient for signup, registration, training, care scheduling, and payroll via an app?	Fiscal intermediaries are responsible for delivering services as outlined in the RFO. How this is to be accomplished should be outlined in the Lead FI's response to the RFO. Also refer to "EVV" Questions and Answers.
37	Section 4.0: Fiscal Intermediary Services (Pages 7-13 of RFO)	Is there an expectation that extensive training will be available to the client and caregiver through an app?	See answer to Question 36.
38	Section 4.0: Fiscal Intermediary Services (Pages 7-13 of RFO)	Is there an expectation to provide Video call support?	See answer to Question 36.

**RFO #20039 QUESTIONS AND ANSWERS**

**FISCAL INTERMEDIARY PROGRAM EXPECTATIONS**

Question Number	RFO Reference	Question	Answer
39	Section 4.0: Fiscal Intermediary Services (Pages 7-13 of RFO)	Is there an expectation that the auditors will be working remotely?	The Department is unsure what auditors this question is referring to. RFO Section 4.6 outlines the fiscal monitoring and oversight requirements of the Contractor. The Department reserves the right to conduct audits in any manner it deems appropriate.
40	Section 4.6: Fiscal Monitoring and Oversight Requirements (Pages 10-11 of RFO)	Section 4.6(c) states that the FI is required to “Maintain financial records that facilitate financial monitoring and audits.” Can the Department elaborate on what documents, beyond what a FI is required to keep pursuant to section 365-f of the social services law or 18 NYCRR 505.28?	Offerors should be compliant with all Medicaid and Medicaid provider rules and requirements. In addition, please refer to the websites listed in 4.6.(f) and (g) for more information on OMIG and CMS compliance and record retention requirements, and Section 4.4 for applicable statutes and regulations FIs must adhere to.
41	Section 4.6: Fiscal Monitoring and Oversight Requirements (Pages 10-11 of RFO)	4.6.c- Maintain financial records that facilitate fiscal monitoring and audits; Can the department please elaborate on the expectations in this section relating to financial records that facilitate fiscal monitoring and audits?	See answer to Question 40.
42	Section 4.6: Fiscal Monitoring and Oversight Requirements (Pages 10-11 of RFO)	Section 4.6(d) requires that an FI “provide fiscal oversight and actively investigate issues regarding fiscal integrity”? Of and to whom? Is this different than application of a Medicaid compliance plan?	See answer to Question 40.
43	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	May a FI that is also a LHCSA recommend a traditional personal care aide for the consumer to interview and potentially hire in the event a consumer’s personal assistant calls off or has inadequate staffing?	<p>See section 4.1 of the RFO. Under the list of services the fiscal intermediary <b>shall not</b> provide, (b) states: "Training, scheduling and supervising PAs including arranging and scheduling substitute coverage when a PA is temporarily unavailable for any reason".</p> <p>It is the responsibility of the consumer to recruit and hire their personal assistants.</p> <p>As described in RFO Section 4.2(d), FIs may provide training to consumers to assist them in their role as an employer in areas including, but not limited to recruiting, interviewing, dealing with difficult employees, effective supervision and termination of employment.</p> <p>Refer also to "Firewall" Questions and Answers.</p>
44	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Can the FI assist the client with recruiting?	See answer to Question 43.

**RFO #20039 QUESTIONS AND ANSWERS**

**FISCAL INTERMEDIARY PROGRAM EXPECTATIONS**

Question Number	RFO Reference	Question	Answer
45	Section 4.6: Fiscal Monitoring and Oversight Requirements (Pages 10-11 of RFO)	Section 4.6(h) requires the potential contractors to work “cooperatively” with the Department of Health (DOH) and other state and federal bodies. Can the Department clarify what this means or applies to? For instance, if the Department of Health and Human Services requires a fiscal intermediary (FI) to collaborate with Immigration and Customs Enforcement (ICE) in facilitating a raid on an apartment because they believe undocumented immigrants live there, must they do so? Alternatively, if an agency conducts advocacy work, may they take positions contrary to the DOH or other entities, whether on matters related to the provision of FI services or not?	This cooperation requirement relates to the Department's, OMIG's and OIG's compliance and fiscal oversight functions.
46	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Regarding f), distributing PA checks to consumers to then be distributed to PAs is an unnecessary step, inherently delaying delay of paychecks and creating a crucial vulnerability. As the co-employer, it is perfectly appropriate for FIs to distribute checks. This reduces the likelihood of postal delays. This also eliminates the possibility of a consumer illegally withholding a paycheck (for any purpose). Why would the state prevent FIs from distributing paychecks?	A Lead FI may distribute checks directly to the PA. The RFO states: Section 4.1 "Fiscal Intermediaries are not responsible for, and fiscal intermediary services shall not include fulfillment of the responsibilities of the consumer which include:.... f) Timely distributing PAs employment checks, <i>if necessary</i> ; (emphasis added)"  The "if necessary," means that the consumer may be responsible for this process if the Lead FI is not otherwise fulfilling this requirement as the joint employer (e.g., distributing employment checks directly to PAs via mail or direct deposit).
47	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	For bullet f., under items listed that Fiscal Intermediaries are not responsible for: a. Does this mean the FI can choose NOT to direct mail PA checks and only send to the consumer to distribute to their FI? Some consumers may wish to have checks mailed directly to consumers. b. Can FIs now legally refuse this and force mailing of checks to consumers who are then obligated to hand them out?	See answer to Question 46.
48	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Section 4.1(f) notes that a FI shall not include “timely distributing PA employment checks, if necessary...” What determines whether or not the timely distribution of paychecks is a necessary consumer responsibility? If the FI is not allowed to undertake this task, how can it be held liable for ensuring that the paycheck is delivered to the PA in a timely manner?	See answer to Question 46.
49	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	If the consumer signs, in our agreement, that we can distribute PAs employment checks, is it acceptable to pay the PA by direct deposit, live check, or Pay card distributed by the agency’s payroll department; or does the consumer have to physically distribute the paychecks?	See answer to Question 46.

**RFO #20039 QUESTIONS AND ANSWERS**

***FISCAL INTERMEDIARY PROGRAM EXPECTATIONS***

<b>Question Number</b>	<b>RFO Reference</b>	<b>Question</b>	<b>Answer</b>
50	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	What is the reason the Department does not permit Fiscal Intermediaries to timely distribute PA employment checks, if necessary?	See answer to Question 46.
51	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Is direct deposit considered distribution of a PA paycheck?	Direct deposit is permitted. See answer to Question 46.
52	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	(Page 8 - Section 4.1.j.f.) indicates that the Fiscal Intermediary is not responsible for the “timely distributing Pas employment checks” – can the State please clarify this section, as this is a current FI practice.	See answer to Question 46.
53	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Please clarify the following item in 4.1 (f): Timely distribution of PAs employment checks, if necessary. Does this refer to employment verification checks or payroll checks?	This refers to payroll checks.
54	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	If a complaint is received by the FI, and the FI is in no way implicated (e.g., the consumer is complaining about behavior of the personal assistant the consumer hired), must the FI investigate/address the complaint?	Per Section 4.7(d), the FI is required to track all complaints. If the disposition of the complaint is outside the scope of the FIs responsibilities, the FI would make a record of that in tracking how the complaint was resolved, which may include a referral to another responsible party.
55	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	4.5(e) What does the NYSDOH consider acceptable documentation of “cultural and linguistic competencies”?	There is no specific type of documentation, services or efforts that the Department requires. The documentation submitted should reflect that the Lead FI is responsible for understanding and being aware of the cultural and linguistic needs of the clients it anticipates serving. Demonstration of the offeror’s ability to address the cultural and linguistic needs of the consumers being served and their personal assistants should be included in the technical narrative.
56	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	What is the definition of “appropriate cultural and linguistic competencies to serve its consumers and those of the available PAs that assist consumers”?	See answer to Question 55.

**RFO #20039 QUESTIONS AND ANSWERS*****FISCAL INTERMEDIARY PROGRAM EXPECTATIONS***

<b>Question Number</b>	<b>RFO Reference</b>	<b>Question</b>	<b>Answer</b>
57	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	As a fiscal intermediary looks to meet the cultural and linguistic needs of consumers, what is the Department's expectation when it states that the FI must guarantee that all of the languages of "potential" personal assistants (PAs) are met? Is a translation service or language line acceptable? Is there a standard the Department will apply in determining the pool of "available" PAs in a community, as program rules mean this could amount to every individual over the age of 18 in an area?	See answer to Question 55.
58	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	Section 4.5(e), Fiscal Intermediary Organizational Requirements, provides that an Offeror must "ensure that it has the appropriate cultural and linguistic competencies to serve its consumers and those of the available PAs that assist consumers." We request elaboration on what may be considered cultural and linguistic competencies.	See answer to Question 55.
59	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	4.5.e-Ensure that it has the appropriate cultural and linguistic competencies to serve its consumers and those of the available PAs that assist consumers; Is a language line or translator sufficient?	See answer to Question 55.

**RFO #20039 QUESTIONS AND ANSWERS**

**FISCAL INTERMEDIARY PROGRAM EXPECTATIONS**

Question Number	RFO Reference	Question	Answer
60	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Regarding g), it is understood that consumers are the supervisor and have primary responsibility on all hiring and termination duties. However, there have been cases in which the consumer and PA were colluding to allow the PA to violate pertinent laws. In these circumstances, the FI must be able to terminate the PA's employment to prevent further violation. Legal investigations into such matters can take months before producing actionable findings. FIs need to be able to act more quickly and need to be able to terminate PA employment in such cases. Also, for example, if a PA fails to get their health assessment, they are ineligible to work in this program. Is it really the state's intent that the FI cannot terminate PAs in any situation?	<p>Pursuant to state law, FIs may not engage in the recruiting, hiring or termination of consumer directed personal assistants as defined by the commissioner. See SSL section 365-f(4-a)(a)(iii). Pursuant to this section of law and 18 NYCRR 505.28, the FI may refuse the consumer's PA selection if they are: a Non-adult; a consumer's spouse; the parent of a minor child consumer; the designated representative; and/or an adult relative of the consumer if the LDSS or MCO has not determined that the services provided by such relative are consistent with an individual's plan of care and that the aggregate cost for such services does not exceed the aggregate costs for equivalent services provided by a non-relative personal assistant.</p> <p>With respect to matters of fraud, waste, or abuse, the FI may not refuse a consumer's selection of their PA unless the PA is on a recognized exclusion list. See <a href="https://omig.ny.gov/medicaid-fraud/medicaid-exclusions">https://omig.ny.gov/medicaid-fraud/medicaid-exclusions</a></p> <p>Where the FI has knowledge or a reasonable suspicion of fraud, waste or abuse after the PA has been selected and started services, the FI must inform OMIG and either the MCO or LDSS as applicable. The FI will continue to serve the consumer until the LDSS or MCO discontinues services and aid continuing is not provided or required.</p>
61	General	What are the provider protections or choice in not "accepting service in any area"? Providers may have concern with fraud or not have specific rate (i.e.. live in)	See answer to Question 60. See also "Payment" Questions and Answers.
62	General	The RFO indicates that offerors agree to provide FI services to any CDPAP consumer enrolled in Medicaid in the authorized service area. What are the protections available to the FI to deny services to a consumer that violates policy or law, including unauthorized use of overtime, Medicaid fraud or abuse, or sexual harassment?	See answer to Question 60.
63	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	On page 8 of the RFO, under section 4.1, the RFO states that fiscal intermediaries are not permitted to terminate personal assistants. However, is there a way that you would suggest for a fiscal intermediary to terminate the services or the case itself where the fiscal intermediary discovers that the consumer and the worker are engaging in fraud, or that the PA has engaged in fraud?	See answer to Question 60.

**RFO #20039 QUESTIONS AND ANSWERS**

***FISCAL INTERMEDIARY PROGRAM EXPECTATIONS***

Question Number	RFO Reference	Question	Answer
64	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	If the consumer is responsible for hiring and terminating employment with the PA, what is process if the FI determines the PA has been deemed excluded from the Medicaid program?	See answer to Question 60.  The FI cannot serve a case where the consumer is trying to select an individual who is excluded.
65	Section 4.2: Best Practices (Page 8 of RFO)	Will DOH establish hotline to address questions regarding abuse, neglect, or non-compliance?	See answer to Question 60.
66	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	The RFO states that the lead FI (or its subcontractor) is no longer permitted to hire or terminate employees. Will the lead FI still be responsible for reimbursing monies fraudulently billed by consumers and the aides that the consumer has hired and retained?	See answer to Question 60.
67	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	Can a Lead FI take steps to terminate a PA if they become aware of fraudulent or criminal activity or unsafe practices? Or if the PA is an "excluded individual"	See answer to Question 60.
68	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Are there any prohibitions on advertising to prospective consumers or requirements related thereto?	As stated in section 4.4 of the RFO, in performing FI and other related services described within the RFO, Contractors must comply with all applicable laws, rules, and guidance, including, but not limited to, Department issued guidance and directives, and any other guidance, templates or directives the Department may issue with respect to the FI's marketing and marketing materials.
69	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	RFP Section 4.1 .g: "Monitoring the consumer's (or if applicable, the consumer's designated representative's) continuing ability to fulfill the consumer's responsibilities under CDPAP and promptly notifying the authorizing entity (i.e., the LDSS or MCO) of any circumstance that may affect the consumer's (or if applicable, the consumer's designated representative's) ability to fulfill those responsibilities" Is there a frequency required for this monitoring?	There is no minimum frequency established. The FI is responsible for determining an appropriate frequency that ensures it can fulfill the FI responsibilities and requirements.
70	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	What is the frequency that a FI must monitor the "continuing ability to fulfill the consumer's responsibilities"? Can this monitoring be provided telephonically?	See the answer to Question 69.

**RFO #20039 QUESTIONS AND ANSWERS**

**FISCAL INTERMEDIARY PROGRAM EXPECTATIONS**

Question Number	RFO Reference	Question	Answer
71	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	For bullet d., under items listed that Fiscal Intermediaries are not responsible for: a. What if the consumer is going over their authorized hours? b. Or if hours are ""off"" in some way - i.e. overlapping c. If the consumer and/or PA is not submitting timesheets as per FI procedures - is FI Not responsible for monitoring and correcting this action?	See "Joint Employer" Questions and Answers, Question 30.  In fulfilling their responsibilities under RFO Section 4.1 including processing wages and benefits and maintaining personnel records for each PA, the Lead FI should ensure that time records are correct and if not, contact the consumer and PA to review proper procedures.
72	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	If a consumer refuses to hire enough personal assistants to cover all shifts without the incurrance of overtime and/or the consumer routinely causes overtime expense to be incurred, may the FI determine that the consumer is not suitable for CDPAP? May the FI discharge the patient or will there be a mechanism in place where DOH and/or MLTC to get involved?	No. SSL Section 365-f prohibits Fiscal Intermediaries from recruiting, hiring, scheduling, training, supervising or terminating PAs or managing the Consumer's authorized plan of care. Dictating the number of hours a Personal Assistant can work and refusing lawful overtime pay can infringe on the Consumer's ability to schedule the Personal Assistant of their choice.
73	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	On page 30 of the RFO (Attachment B, Joint Employment Attestation), the Offeror must acknowledge that its role as Fiscal Intermediary (FI) is that of a joint employer. The FI thus assumes all the liability of an employer. However, on page 8, paragraph 1 a-g of Section 4.1, the FI also acknowledges that it has no control over certain employer responsibilities which are the sole responsibility of the consumer. This creates the potential for the FI to be held liable in some situations for the consumer's employment practices despite having no ability to affect such practices in any way. Can an FI be allowed to control a consumer's scheduling of its personal assistants' hours, where such scheduling requires the personal assistant to work significant overtime or "spread" or "split" shifts, which can substantially add to the cost of payrolling a PA?	See answer to Question 72.
74	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	Bullet c: Please describe the policies and processes related to overtime authorization and payment, for example: a. Which entity (ies) will have authority to approve overtime for PAs? b. Will the contractor have the authority to deny overtime requests by consumers? By PAs? If so, who will establish the criteria for such approvals/denials? c. How is overtime coordinated and authorized for PAs who serve multiple consumers? Please describe how the process differs in cases where: the PA serves two consumers who live in different districts; the PA is working overtime due to a short-term or urgent consumer need versus a long-term arrangement with a consumer.	See answer to Question 72.

**RFO #20039 QUESTIONS AND ANSWERS**

**FISCAL INTERMEDIARY PROGRAM EXPECTATIONS**

Question Number	RFO Reference	Question	Answer
75	Section 4.4: Fiscal Intermediary Compliance Requirements (Pages 9-10)	Does the FI have any rights to control the PA's schedule to minimize or deny overtime, working excess hours in a day, or minimize split shifts which can substantially add to the cost of payroll processing and potentially violate Department of Labor standards?	See answer to Question 72.
76	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	RFP Section 4.1.d: "Ensuring the health status of each PA is assessed prior to service delivery pursuant to 10 NYCRR § 766.11(c) and (d) or any successor regulation." How is the worker's health assessed?	See 10 NYCRR § 766.11(c) and (d).
77	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	4.1(d) states the health status of each PA is pursuant to 10 NYCRR § 766.1(c) and (d). Element (d)6 of this regulation is regarding the flu vaccine documentation regulations yet the FAQ on the NYSDOH website related to Title X §2.59 states this regulation does not apply to CDPAP or PAs. Is tracking the flu vaccine required or not required for this program?	Flu vaccine tracking is not required for CDPAP personal assistants.
78	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Are we responsible to disseminate educational items to the PAs information such as, Flu prevention, loneliness and depression, fall prevention, etc.? LHCSAs currently providing this information to their HHAs/PCAs as part of annual in-service requirements.	The responsibilities of the Lead FI are provided in section 4.0 of the RFO.
79	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Page 7, Section 4.1, item (e) references the responsibility of the FI to "maintain a copy of the medical documentation required above by 4.1 (b)." Should this be referenced to 4.1 (d)? If yes, what "medical documentation" is required to meet the requirements to ensure the healthy status of each PA?	See Amendment 3. The correct reference in 4.1(e) should be to 4.1(d). Medical documentation would pertain to the health assessment as required by 10 NYCRR § 766.11(c) and (d).
80	Section 6.2: Technical Offer, Subsection F.1 (Pages 23-24 of RFO)	Does F.1, 1 (J) of the RFO on page 24 relate to the Declaration of the Flu and related activities?	See answer to Question 77.
81	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Is PA orientation required to be face to face?	See answer to Question 1.
82	Section 4.7: Quality Monitoring and Reporting Requirements (Page 11 of RFO)	Section 4.7(c) requires tracking of the number of days to onboard a PA. That should be limited to the number of days between when the Consumer presents the PA to the FI and the FI advises the Consumer that the PA may begin work. The number of days that a consumer may take to find a PA is within the control of the consumer. In addition, beyond the initial enrollment of a consumer with an FI, an FI will not be aware of how long a consumer takes to find other PAs.	The RFO is correct as written.  Section 4.7 states the "Number of days to onboard a PA (the number of days between receipt of authorization of services and date service begins for the PA and consumer). FIs may report circumstances that impact this measure", which may include delays in a consumer finding a PA and other delays that may be viewed as outside of the control of the FI.

**RFO #20039 QUESTIONS AND ANSWERS**

***FISCAL INTERMEDIARY PROGRAM EXPECTATIONS***

Question Number	RFO Reference	Question	Answer
83	Section 4.7: Quality Monitoring and Reporting Requirements (Page 11 of RFO)	In section 4.7(c), it is noted that fiscal intermediaries (FIs) will have to submit data pertinent to the number of days it takes to onboard a personal assistant (PA). • Why is the start point for this measure the date that the authorization of services occurs instead of when the consumer informs the FI of who the PA will be? This will accommodate instances where the consumer is hiring a PA outside of the initial authorization period, as well as instances where the consumer does not have potential PAs on hire and must identify potential PAs before services can begin. • Why is this measure only subject to factors the FI “may” report? The FI should be able to “stop the clock” on reporting when services factors beyond its control are impacting services. This includes the three day waiting period for the TB test, the amount of time for immunization assays, the PA not receiving a health assessment in a timely manner, and more. • Why is the end portion when services actually begin? Processing a PA may include determining that the PA is unable to fill that role. By using the date that services begin, a FI would be penalized for doing its job and identifying factors that disqualify a PA, such as an inability to work in Medicaid or a failure of the health assessment.	See answers to Questions 79 and 82.
84	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	Page 9, Section 4.3.J – will the State please clarify what termination documentations would need to be processed by the FI?	The FI should file any documents that may be required under federal or state law or regulation upon termination of an employee.
85	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Is the FI or the consumer responsible for conducting mandated sexual prevention awareness training?	To the extent it would apply to a consumer, the consumer is responsible for carrying out any training required by law for their personal assistants.  The FI is responsible for carrying out the duties of the FI as detailed in RFO Section 4.0.
86	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Is the FI responsible for HIPAA training?	See RFO Section 4.5 (b).
87	Section 4.0: Fiscal Intermediary Services (Pages 7-13 of RFO)	Do we need to have software for the payment method?	The Lead FI needs to have systems in place to appropriately conduct the responsibilities detailed in RFO Section 4.0.

**RFO #20039 QUESTIONS AND ANSWERS**

**FISCAL INTERMEDIARY PROGRAM EXPECTATIONS**

Question Number	RFO Reference	Question	Answer
88	Section 4.0: Fiscal Intermediary Services (Pages 7-13 of RFO)	Are future enrollments prorated for payroll purposes?	There is no reference to future enrollments in RFO Section 4.0. The Department does not understand the question as asked and therefore is unable to provide an answer.
89	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	What is the definition of an “inaccurate paycheck”? Is a paycheck only considered inaccurate due to mistakes by the FI or mistakes by the consumer as well (i.e. missing timesheet submitted or missed shifts identified)?	Paychecks must meet all applicable wage and labor laws and regulations regarding accuracy.
90	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	Subsection i- What are the “Consumer’s PA billing records”?	PA billing records include those records the consumer is required to provide to the FI to inform them of the hours worked by the personal assistants.
91	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	Section 4.3 of the RFO (Joint Employment): requires that the Lead Fiscal Intermediary must (c) tabulate appropriate hours for employee paychecks when services are rendered for multiple consumers by a single PA and/or multiple PA’s for a single consumer. Please clarify. Does this mean that a PA providing services for multiple consumers be provided with a breakdown per consumer on the employee paycheck?	See answer to Question 90.
92	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	Section 4.3(h) of the RFO provides that the Lead Fiscal Intermediary must maintain and make available to the Consumer information detailing the wage rates and benefits of PAs. Is it sufficient to provide this information upon commencement of employment or wage increase, or is the requirement more frequent?	The FI should make this information available to consumers upon request.
93	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	Who determines the caregiver wages - the lead FI, or the consumer?	See RFO Section 4.1(a).

**RFO #20039 QUESTIONS AND ANSWERS**

***FISCAL INTERMEDIARY PROGRAM EXPECTATIONS***

<b>Question Number</b>	<b>RFO Reference</b>	<b>Question</b>	<b>Answer</b>
94	Section 4.7: Quality Monitoring and Reporting Requirements (Page 11 of RFO)	Can the State elaborate on what would be deemed an inaccurate paycheck as opposed to an accurate paycheck as referenced in section 4.7 on page 11 of the RFO? What validation does the State require to prove an accurate paycheck? Can the State provide examples?	See answer to Question 89.
95	Section 4.7: Quality Monitoring and Reporting Requirements (Page 11 of RFO)	Page 11, Section 4.7 (b), will the Department define what constitutes an accurate paycheck?	See answer to Question 89.
96	Section 5.4: Payment (Page 14 of RFO)	Who is responsible for paying the PAs? (i.e. under which Federal ID is payroll being generated?)	The Lead FI is responsible for paying the PA.
97	Section 5.4: Payment (Page 14 of RFO)	Is there a wage requirement for the PA or does the FI establish that?	See RFO Section 4.1(a).  Wages must comply with all applicable state and federal labor laws and regulations.
98	Section 4.5: Fiscal Intermediary Organizational	In section 4.5(d), what policies and procedures must be documented, particularly as they relate to FI administrative staff? Does a FI need policies and procedures for how it interacts with consumers? Does it need them for how it handles referrals and intakes?	Any policies and procedures required for the Lead FI to fulfill all responsibilities as outlined in the RFO and resulting contract. A list of the titles of policies and procedures should be submitted within the technical narrative.
99	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	In 4.5(d) and the subsequent sections relating to FI Requirements, it notes that "FIs must document and maintain written FI policies and procedures, including for FI administrative staff." Can the Department elaborate on which policies and procedures would be applicable? For instance, in a organization where a FI is one line of business, which organizational policies would need to be included? Can the Department provide clarification about what processes they expect a FI to maintain policies on?	See answer to Question 98.
100	Section 6.2: Technical Offer, Subsection F.3 (Pages 24-25 of RFO)	Will the Department issue guidance on the content and format of the written FI policies and procedures required under section 6.2(F.3)(7)? Will these policies be the same policies current operational FIs were previously required to submit to the Department?	No, the Department does not currently intend to provide additional guidance. See answer to Question 98.
101	Section 4.7: Quality Monitoring and Reporting Requirements (Page 11 of RFO)	The Department reserves the right to make any and all reports public" (Section 4.7, end of the first paragraph). To ensure a full and contextually complete picture of the FI's services is represented, will there be a requirement that a report be made public in its entirety?	Per Section 4.7, the Department reserves the right to make any and all reports public. This can include all or a portion of any report, subject to any applicable privacy and confidentiality rules.

**RFO #20039 QUESTIONS AND ANSWERS**

**FISCAL INTERMEDIARY PROGRAM EXPECTATIONS**

Question Number	RFO Reference	Question	Answer
102	Section 4.7: Quality Monitoring and Reporting Requirements (Page 11 of RFO)	Please clarify the statement that the Department has the right to make any and all reports public. Some of the data requested to be reported such as census numbers, employee counts, referral numbers are proprietary in nature and a FI may not wish for those numbers to be made public.	See answer to Question 101.
103	Section 4.7: Quality Monitoring and Reporting Requirements (Page 11 of RFO)	Are the reporting requirements described in Section 4.7 applicable to Lead FIs and are the Lead FIs expected to provide such reporting on behalf of their collaborating subcontractors?	Lead FIs must produce reporting as described in Section 4.7 including obtaining and reporting any information from subcontractors in meeting those requirements.
104	Section 4.7: Quality Monitoring and Reporting Requirements (Page 11 of RFO)	Related to Section 4.7, can the State provide samples/templates with instructions on the anticipated Quality Monitoring Reports which reflect the expected content and formats?	Per RFP Section 4.7, the Department will provide reporting templates and instructions at least 90 calendar days prior to the due date of any reports.
105	Section 4.7: Quality Monitoring and Reporting Requirements (Page 11 of RFO)	Related to Section 4.7, are there any additional reporting requirements under consideration beyond those mentioned in items A through E?	Additional reporting may be required by the Department. If so, the Department will provide reporting templated in instructions at least 90 calendar days prior to the due date of these reports, consistent with Section 4.7 of the RFO.
106	Section 4.7: Quality Monitoring and Reporting Requirements (Page 11 of RFO)	You specify a requirement of "the total number of referrals made each month by an LDSS and/or MCO to the FI." (Section 4.7, part E): a) Would this be referrals that already have active authorizations? b) Could you consider breaking down the number of referrals that were opened, and reasons why some referrals may not have been opened? Will referrals be tracked by the number that are moved to open and active status by the FI, closed by the FI, and will the reasons for closure of a referral be tracked? c) How will this information be used?	Section 4.7(e) requires the FI report the total number of referrals made each month by an LDSS and/or MCO to the FI. As indicated in Section 4.7, the Department will provide reporting templates and instructions at least 90 calendar days prior to the submission of reports.
107	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Must supervisory visits be conducted face to face or do telephonic check-in calls suffice? Must it be a nurse?	Supervision of PAs is the responsibility of the consumer, not the FI.
108	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	Does an FI need to ensure the PA complete both the W-4 Federal Employee's withholding Allowance Certificate and IT-2104 State Employee's Withholding Allowance Certificate as referenced in section 4.3 on page 9 or is the W-4 alone sufficient?	Yes.

**RFO #20039 QUESTIONS AND ANSWERS**

***FISCAL INTERMEDIARY PROGRAM EXPECTATIONS***

<b>Question Number</b>	<b>RFO Reference</b>	<b>Question</b>	<b>Answer</b>
109	Section 4.4: Fiscal Intermediary Compliance Requirements (Pages 9-10)	Does the Lead Offeror need to send in W-2's to prove Wage Parity Compliance or sign an attestation instead?	The Lead FI must meet all applicable wage parity requirements as required by the Department.
110	Section 4.7: Quality Monitoring and Reporting Requirements (Page 11 of RFO)	What is the definition of a "timely payroll cycle"?	Paychecks must meet all applicable wage and labor laws and regulations regarding timeliness.
111	Section 4.7: Quality Monitoring and Reporting Requirements (Page 11 of RFO)	What does "timely" and "accurate" mean?	See answers to Questions 89 and 110.
112	Section 4.7: Quality Monitoring and Reporting Requirements (Page 11 of RFO)	Can the State elaborate on what would be deemed an untimely paycheck as opposed to a timely paycheck as referenced in section 4.7 on page 11 of the RFO? What validation does the State require to prove a timely paycheck? Can the State provide examples?	See answers to Questions 89 and 110.
113	Section 4.7: Quality Monitoring and Reporting Requirements (Page 11 of RFO)	Page 11, Section 4.7 (a), will the Department define what constitutes a timely payroll cycle?	See answers to Questions 89 and 110.
114	Section 6.2: Technical Offer, Subsection F.3 (Pages 24-25 of RFO)	Section F.3.2 – what is meant by "effectively and timely"?	See answers to Questions 89 and 110.
115	Section 6.2: Technical Offer, Subsection F.3 (Pages 24-25 of RFO)	Page 25 – Section F.3.2. – will the State please clarify how they define "timely delivery" of services?	The Department has not defined timely delivery of services as it relates to maintaining a local presence. The offeror should demonstrate in its offer how they plan to maintain a local presence that allows for the timely delivery of services.
116	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	If the Dept. of Labor determines that a Personal Assistant (PA) should receive unemployment compensation, is the Lead FI obligated to compensate the PA?	See RFO Section 4.3(d).
117	Section 6.2: Technical Offer (Pages 21-26 of RFO)	Why should we "appear at workers compensation, disability, or unemployment hearings" as per page 16 point 5.7?	Employers may be called to appear at hearings for worker's compensation, disability or unemployment.

**RFO #20039 QUESTIONS AND ANSWERS**

**FISCAL INTERMEDIARY PROGRAM EXPECTATIONS**

Question Number	RFO Reference	Question	Answer
118	Section 6.2: Technical Offer, Subsection F.1 (Pages 23-24 of RFO)	Regarding question F.1.C, why should we comply with worker's compensation, disability, and unemployment requirements?	This is specifically required by law. See SSL § 365-f(4-a)(a)(ii)(C).
119	General	The issue of timely response has been a concern for a long time among the CDPAP community. Inquiries regarding PA onboarding, payroll, and more have been met with unreturned voicemails returned days or weeks later. (some inquiries not returned at all). Is there anything in this RFO, i.e. within best practices or another area, that compels prospective FIs to commit to respond to inquiries in a timely manner? Will this be included an FI's quality report? Or will the DOH be looking into this while assessing FI complaint reports?	RFO Section 4.7 includes quality monitoring and reporting requirements related to the timeliness of the provision of FI services.
120	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	Section 4.4 states that Contractors "must comply with all applicable laws, rules and guidance." Please clarify that such laws, rules and guidance must be lawful.	The Department does not agree such clarification is necessary.
121	Section 4.4: Fiscal Intermediary Compliance Requirements (Pages 9-10)	Please confirm that there is no longer any residence requirement. In other words, may a daughter of a consumer, who is not the Designated Representative, serve as the personal assistant even though she lives with the consumer only for convenience (i.e., a reason unrelated to the consumer)?	Per the CDPAP Clarification on the Department's website at: <a href="https://www.health.ny.gov/health_care/medicaid/redesign/mrt90/cdpap_clarification.htm">https://www.health.ny.gov/health_care/medicaid/redesign/mrt90/cdpap_clarification.htm</a> "....Living in the same home with the consumer does not disqualify a family member from being selected and hired as a personal assistant. Whether the consumer is self-directing or not is irrelevant. Provisions for the CDPAP have always allowed otherwise eligible family members to provide care while living in the same residence with the consumer. This remains unchanged in light of the April 1, 2016 change to the law."
122	Section 4.7: Quality Monitoring and Reporting Requirements (Page 11 of RFO)	How many payroll cycles? (b)/2	The Department does not understand the question as written and therefore cannot provide a response.
123	Section 4.6: Fiscal Monitoring and Oversight Requirements (Pages 10-11 of RFO)	Can the State specify and identify which Medicaid rules and regulations are applicable to the fiscal procedures and internal control procedures referenced under section 4.6, subsection (b) on page 10?	This includes, but is not limited to, 18 NYCRR § 504.3 and Part 517 and any controls that may be required pursuant to contract with a managed care organization.

**RFO #20039 QUESTIONS AND ANSWERS**

**FISCAL INTERMEDIARY PROGRAM EXPECTATIONS**

Question Number	RFO Reference	Question	Answer
124	Section 4.6: Fiscal Monitoring and Oversight Requirements (Pages 10-11 of RFO)	Section 4.6(b) requires the maintenance of written fiscal procedures and internal control procedures. Is this requirement applicable only to the fiscal intermediary's functions?	Yes.
125	General	Are FIs required to inform consumers, designated representatives and personal assistants a method to complain if any of these requirements are not met after the anticipated contract start date? For example, if I am a personal assistant for an FI and even though my FI included assurance for a timely payroll cycle - paychecks are still late. Or I am a consumer and though my FI put in their bid request a commitment to timely response to my inquiries - it takes weeks to return a phone call. Is there contact email/number they can call at the DOH to complain? And are FIs required to share this information?	The RFO outlines in Section 6.2.F.5 that offers should include a narrative description (see Section 6.2.F.5) of how they will meet the Quality Monitoring and Reporting Requirements in RFO Section 4.7 the RFO, which includes tracking of consumer and PA complaints to the FI.
126	General	Currently, several FIs use misleading domain names that misrepresent their business identity. Government ""type"" domain names and top-level domains (i.e. .org): cdpap.org ==> Advanced Home Care Services cdpapny.org ==> Edison Home Health Care cdpapnyc.org ==> Attending Home Care suffolkcountycdpap.com ==> Community Care CDPAP Will the registered domain names/website redirection of an FI applicant be assessed during the approval process? FIs that choose to use this internet marketing tactic can potentially mislead potential customers into believing their FI is somehow an official Medicaid/CDPAP/Government entity.	No. See answer to Question 68.
127	Section 4.6: Fiscal Monitoring and Oversight Requirements (Pages 10-11 of RFO)	As per the current CDPAP regulations 505.28 and SOS 365-F there are no minimum required monitoring frequency. Under the CDPAP DSS contract, the FI is required to monitor every 90 days. However, MCO's provide no monitoring recommendations when it comes to CDPAP. Our FI created our own monitoring program for patients across the board. For this upcoming agreement is there a minimum monitoring frequency that is recommended?	There is no minimum frequency established. The Lead FI is responsible for determining an appropriate frequency that ensures it can fulfill the FI responsibilities and requirements.  The Lead FI should demonstrate this in the offer's technical narrative.

**RFO #20039 QUESTIONS AND ANSWERS  
OFFER SUBMISSION**

<b>Question Number</b>	<b>RFO Reference</b>	<b>Question</b>	<b>Answer</b>
1	General	If an entity submits more than one offer as a Lead FI, what happens?	The first offer received will be the only one evaluated.
2	Attachments (Pages 29-36 of RFO)	Please identify which staff person employed by the Lead entity is required to sign all of the attachments and forms.	A person who is legally authorized to bind the offeror to the requirements of the offer. Examples of such an individual could be any corporate officer of the offeror.
3	Attachments (Pages 29-36 of RFO)	Do we have to include Attachment A (Offer Document checklist) with the submission?	Attachment A should be included in each of the Administrative and Technical Proposals signifying which documents are included in each.
4	Attachments (Pages 29-36 of RFO)	Does the DOH wish to have the Attachment A, Offer Document Checklist, submitted with the RFO? If so, is it supposed to be attached to the Administrative or the Technical Offer PDF?	See answer to Question 3.
5	Attachments (Pages 29-36 of RFO)	In the event that a particular attachment is not relevant to an Offeror, should they submit that Attachment with their application, writing "N/A" or "This page left intentionally blank," or can they just not include the attachment?	Offerors should refer to the checklist provided in Attachment A on Page 29 to determine which Attachments should be returned with the administrative and technical offers. See also RFO Section 6.0: Offer Content.  If an attachment is not relevant to the offer being submitted, it should be included and the offeror should indicate it is not relevant, e.g., writing "N/A" on the attachment or including the information in the technical narrative.
6	Attachments (Pages 29-36 of RFO)	Attachment B of the Technical offer allows for an entity that has been operational since 2012 to submit a list of contracted MCOs. Can an entity that is capable of providing services (under the third tier), and has been providing services since 2015 also submit such a list with this attachment?	Yes.
7	Attachments (Pages 29-36 of RFO)	Since there are many attachments on the website, which attachment should I fill out for the continuation of FI service?	See RFO Section 6.0: Offer Content.
8	Attachments (Pages 29-36 of RFO)	With respect to Attachment 1 "Bidder's Disclosure of Prior Non-Responsibility Determinations," the form asks for the "Bidder Vendor ID" and the "Bidder Federal ID." I understand that the Bidder Vendor ID has to be obtained through the State, but what about the Bidder Federal ID? Where does an applicant get that #?	Instructions for applying for a Federal ID number (also referred to as an "Employer Identification Number" or "EIN") can be found at the following link:  <a href="https://tax-irs-ein.com">https://tax-irs-ein.com</a>
9	Attachments (Pages 29-36 of RFO)	With respect to Attachment 6 of 6.1.E under the Technical Offer, it's my understanding that the Offeror should identify all business (such as payroll, benefit processor) that are NYS-based. In other sections of the RFO, the RFO states that information about payroll companies does not need to be provided, so Attachment 6 is a bit confusing. Can you please identify the types of vendors you are expecting to see for fiscal intermediary Offerors?	Attachment 6 should include <b>any</b> New York Businesses the offeror will use in the performance of the contract.  See "Collaborating Partners and Subcontractors" Questions and Answers, Question 83.

**RFO #20039 QUESTIONS AND ANSWERS  
OFFER SUBMISSION**

Question Number	RFO Reference	Question	Answer
10	Attachments (Pages 29-36 of RFO)	RFO Page 28 lists the attachments to be included in the offer. RFO Attachment A on page 29 also list the attachments to be included. However, the two lists do not match. Page 28 list includes: Attachment 2: No-Bid form and Attachment 8: DOH Agreement (Standard Clauses). These are not listed on page 29. Are they to be included with the RFO?	<p>Page 28 lists all attachments included in the RFO, both those that are required to be completed and those that are provided for reference only.</p> <p>Attachment A on page 29 is the list of required attachments to be completed by the offeror and included in the administrative and technical offers.</p> <p>Attachment 8 is the resulting contract, provided for reference only.</p> <p>Attachment 2, No-Bid form, would only be used by entities to indicate they will not be submitting an offer.</p>
11	Attachments (Pages 29-36 of RFO)	Please clarify on RFO page 32, Attachment C, the second attestation regarding FIs established prior to January 1, 2012. The second sentence of the attestation, in pertinent part, states, "Include with this form a list of LDSS or MCOs the lead agency has contracted with...". What is meant by "lead agency" in this attestation?	<p>This reference to lead agency in Attachment C is in error.</p> <p>The sentence on Attachment C is revised to read: "Include with this form a list of LDSS or MCOs the collaborating partner has contracted with, including the name of the MCO/LDSS and the term of the contracts, to demonstrate how the entity meets this eligibility criterion."</p> <p>Attachment C has been updated on the Department website.</p>
12	Attachments (Pages 29-36 of RFO)	Attachment 1- Bidder's Disclosure of Prior Non-Responsibility Determination, for the Solicitation Title, what we put on this part? Also, for Solicitation#, what do we put here as well?	<p>The solicitation name is: New York State Fiscal Intermediaries for the Consumer Directed Personal Assistance Program.</p> <p>The solicitation number is RFO #20039.</p>
13	Attachments (Pages 29-36 of RFO)	Attachment 1-What is the solicitation title?	See answer to Question 12.
14	Attachments (Pages 29-36 of RFO)	Attachment 1-How can I locate the solicitation #?	See answer to Question 12.
15	Attachments (Pages 29-36 of RFO)	Attachment 1-What or how can I identify the bidder vendor ID?	Vendor IDs are not required at the time of offer submission. The Department will assist awarded Lead FIs with obtaining a Vendor ID.
16	Attachments (Pages 29-36 of RFO)	Attachment 1 asks for Bidder Vendor ID # - is that the same number that is issued as part of completing Attachment 3?	See answer to Question 15.
17	Attachments (Pages 29-36 of RFO)	Attachment 1-What or how can I identify the bidder federal ID?	See answer to Question 8.

**RFO #20039 QUESTIONS AND ANSWERS  
OFFER SUBMISSION**

Question Number	RFO Reference	Question	Answer
18	Attachments (Pages 29-36 of RFO)	Paragraph 2 of RFO #20039, Attachment 4 specifies that the Offeror must disclose any potential or actual conflicts of interest that may arise from any relationship between people or entities in connection with services rendered. If no conflict of interest exists and none is anticipated, should the Offeror submit a statement with Attachment 4 attesting that there is no actual or potential conflict of interest? Or, should the Offeror instead submit the signed Attachment 4 without any additional documentation or explanation?	If no conflict of interest exists and none is expected, Offerors should submit the signed Attachment 4 without any additional documentation.
19	Attachments (Pages 29-36 of RFO)	Paragraph 3 of RFO #20039, Attachment 4 specifies that the Offeror must disclose any previous investigations conducted or discipline issued by the Commission. If no investigations or discipline took place, should the Offeror submit a statement with Attachment 4 attesting that the Commission has not investigated or disciplined the Offeror? Or, should the Offeror instead submit the signed Attachment 4 without any additional documentation or explanation?	See answer to Question 18.
20	Attachments (Pages 29-36 of RFO)	How much detail is required in the description of how the subcontractor meets the eligibility requirements (Attachment C).	<p>The offer should include with Attachment C a description of how the collaborating partner meets the eligibility criteria that is checked on the form, based on the guidance provided within each criteria listed in the Attachment.</p> <p>Attachment C is to be used to demonstrate how each collaborating partner otherwise meets one or more of the eligible offeror qualifications as defined in Section 3.1.</p> <p>Attachment C has been updated on the Department website.</p>
21	Attachments (Pages 29-36 of RFO)	Under Attachment C of the RFO, it states that "include with this form a description of how the entity meets this eligibility criterion." I'm not sure what type of a description the State is seeking here. Is it sufficient to specify that the entity is a collaborating partner and will be assisting the Lead FI with intake work? Recall, given the RFO's restrictions on what a Lead FI must do and what a subcontract cannot do, it is not clear to me what the collaborator/subcontractor will actually be doing in this subcontractor/Lead FI relationship except handing over patient cases to the Lead FI for handling. This type of a relationship or a structure where this will effectively end up happening is a kickback.	<p>See answer to Question 20.</p> <p>A subcontractor will be supporting the Lead FI in performing its FI responsibilities or best practices. See "Collaborating Partners and Subcontracting" Questions and Answers for additional information.</p> <p>The relationship between the Lead FI and the subcontractor is that of a service provider and the fee should be structured in accordance with applicable legal requirements, including fraud and abuse laws, to avoid any kickback concerns or other potential violations of federal or state law.</p> <p>Consumers have the right to choose their fiscal intermediary.</p>

**RFO #20039 QUESTIONS AND ANSWERS  
OFFER SUBMISSION**

Question Number	RFO Reference	Question	Answer
22	Attachments (Pages 29-36 of RFO)	In Attachment D, how detailed must the “proposed service area” be? Zip codes, names of neighborhoods? If approved, would FI be limited to that area? If it’s not by zip code, how would this be enforced? And would the metric (e.g. zip code) be the zip code of the aide or that of the patient?	Attachment D should only include an “X” within each county the Lead FI proposes to serve. By selecting a county, the Lead FI is agreeing to serve the entire county.
23	Section 1.0: Calendar of Events (Page 4 of RFO)	The RFO is highly complex with a lot of attachments. What if I miss something in my submission of the offer requested in the RFO?	Offers that are materially deficient in meeting the submission requirements or have omitted material documents, in the sole opinion of the Department, may be rejected. This RFO is competitive and awards will be made to offerors that best meet the criteria for selection in accordance with Social Services Law Section 365-f and are best suited to serve the needs of consumers.
24	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	What happens if you don’t have subcontractors before the application deadline for submission?	In its technical offer, the Lead FI should address how it will meet all FI requirements as outlined in the RFO.  Formal subcontracting arrangements are not required at the time of offer.
25	Section 3.1: Eligible Offerors (Page 6 of RFO)	Page 6, Section 3.1(b), can the Department provide examples of what documentation is required to establish that an entity has been a Fiscal Intermediary prior to January 1, 2012 and has been continuously providing services for CDPAP individuals under section 366-f of the Social Services Law?	Per the guidance in Attachments B and C, the lead agency or collaborating partner should include with the form a list of LDSS or MCOs is has contracted with, including the name of the MCO/LDSS and the term of the contracts, to demonstrate how the entity meets this eligibility criterion.
26	Section 3.2: Collaborations (Pages 6-7 of RFO)	Can info be supplied after award?	Information submitted after award will not be considered in the evaluation of offers.
27	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	Is the Lead FI required to submit policies and procedures and require that the subcontractors expected to have their own policies?	Actual policies and procedures are not required to be submitted with the offer. The Department reserves the right to request copies of any or all policies and procedures or conduct on-site visits to review all policies and procedures.  A list of the titles of policies and procedures should be submitted within the technical narrative related to the operation of the Fiscal Intermediary and the fiscal intermediary fulfilling all responsibilities under this RFO and resulting contract.  Lead FIs are responsible for ensuring the subcontractor performs its services for the Lead FI, either through the adoption of the Lead FI’s policies and procedures or in the development of its own policies and procedures that are consistent with those of the Lead FI.

**RFO #20039 QUESTIONS AND ANSWERS  
OFFER SUBMISSION**

Question Number	RFO Reference	Question	Answer
28	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	Are all policies and procedures referred to in the RFO required as a part of submission?	See answer to Question 27.
29	Section 6.2: Technical Offer (Pages 21-26 of RFO)	For the administrative pieces of the application is the FI required to submit all of its policy and procedures regarding best practices?	See answer to Question 27.
30	Section 6.2: Technical Offer, Subsection F.3 (Pages 24-25 of RFO)	Are we expected to submit policies and procedures, or can we outline the process?	See answer to Question 27.
31	Section 6.2: Technical Offer, Subsection F.3 (Pages 24-25 of RFO)	Bullet 7- Does the department want the full language of each policy and procedure listed for this question or a list of each policy with the full written policy in our possession should DOH request it?	See answer to Question 27.
32	Section 6.2: Technical Offer, Subsection F.3 (Pages 24-25 of RFO)	Bullet7-Does this mean a list such as a Table of Contents is acceptable?	See answer to Question 27.
33	Section 6.2: Technical Offer, Subsection F.3 (Pages 24-25 of RFO)	6.2- F.3- 7: Provide a list of all written FI policies and procedures, including policies for FI administrative staff. The Department reserves the right to request copies of all policies and procedures or conduct on-site visits to review all policies and procedures. Do we need to provide all our processes for CDPAP from beginning to end; including how we maintain and support clients or just an outline/list of processes?	See answer to Question 27.
34	Section 6.2: Technical Offer, Subsection F.3 (Pages 24-25 of RFO)	#7) R.F.O. section F.3. says "Provide a list of all written FI policies and procedures, including policies for FI administrative staff. Do you want us to provide you with the actual policies, or just a list of the policies that the offeror has implemented?"	See answer to Question 27.
35	Section 6.0: Offer Content (Pages 20-26 of RFO)	Submission - Is there an approved format for submission – number of pages, font, etc.	There is no prescribed format for submission other than submitted via email in a PDF.
36	Section 6.0: Offer Content (Pages 20-26 of RFO)	In 6.0, it states that, "All Offerors are requested to submit complete Administrative and Technical Offers." In the next paragraph, it states that, "Offerors are requested to submit offers in separate Administrative, Technical, and Cost packages." Finally, in 6.3, it states that "Offerors are not required to submit a cost offer." Since an incomplete application invalidates the application, will the Department confirm that the reference to cost offer in the second reference is an oversight?	See Amendment 3. The reference to cost offer in the second reference is an oversight and has been stricken.

**RFO #20039 QUESTIONS AND ANSWERS**  
**OFFER SUBMISSION**

Question Number	RFO Reference	Question	Answer
37	Section 6.0: Offer Content (Pages 20-26 of RFO)	In submission of its application, may a FI submit data and other materials to demonstrate and highlight the organization's experience and ability to serve as an FI?	Section 6.2.F and associated subsections (F.1-F.5) detail the requested content of the Offeror's Technical Offer Narrative.  Pre-printed marketing material and overly lengthy supporting attachments <b>should not</b> be included in your response and will not be considered in the evaluation if provided. All documentation should be included in either the technical narrative or the Attachments.
38	Section 6.2: Technical Offer, Subsection F (Pages 23-26 of RFO)	Can we attach external documents (i.e.: letters of recommendation, etc.) to the RFO, in particular to the Technical Offer Narrative?	See answer to Question 37.
39	Section 6.2: Technical Offer, Subsection F (Pages 23-26 of RFO)	Technical Offer Narrative-What type of documentation are supposed to submit for this part?	See RFO Section 6.2.F and associated subsections (F.1-F.5) detail the requested content of the Offeror's Technical Offer Narrative.
40	Section 6.2: Technical Offer, Subsection F (Pages 23-26 of RFO)	For the Technical Offer, what information must be included in the narrative/executive summary?	See answer to Question 39.
41	Section 6.2: Technical Offer, Subsection F.3-F.5 (Pages 24-25 of RFO)	Are these sections what you called 'the technical offer narrative' ? Do I need to do a separate sheet to address each question?	See answer to Question 39. Questions do not need to be addressed on separate sheets.
42	Section 6.2: Technical Offer, Subsection F.1 (Pages 23-24 of RFO)	Section F.1. Can we include written materials showing ability, experience, and how we are qualified?	See answers to Questions 37 and 39.
43	Section 6.2: Technical Offer, Subsection F (Pages 23-26 of RFO)	The RFO states the technical offer should provide satisfactory evidence of the offeror's ability to meet, and expressly respond to each requirement and information requested. Does the Department want copies of policies, manuals, forms, letters of reference, etc. attached to the RFO if appropriate for the requirement or is a narrative descriptive response sufficient?	See answers to Questions 27, 37 and 39.
44	Section 6.2: Technical Offer, Subsection F (Pages 23-26 of RFO)	Are there any limits or restrictions on the length of responses to each requirement outlined in F.1 – F.5?	No.
45	Section 6.2: Technical Offer (Pages 21-26 of RFO)	Is there a page limit to the RFO?	No.
46	Section 6.2: Technical Offer (Pages 21-26 of RFO)	Are there page limits for the administrative and technical offers?	No.
47	Section 6.2: Technical Offer (Pages 21-26 of RFO)	Does the Department have a page limit that needs to be adhered to for the offer?	No.

**RFO #20039 QUESTIONS AND ANSWERS  
OFFER SUBMISSION**

<b>Question Number</b>	<b>RFO Reference</b>	<b>Question</b>	<b>Answer</b>
48	Section 6.2: Technical Offer (Pages 21-26 of RFO)	Should we tell the ancient history of the non-for-profit sponsor as Fiscal Intermediary?	Offerors should provide a narrative description identifying how the offeror will conduct the services as identified in the RFO.
49	Section 6.0: Offer Content (Pages 20-26 of RFO)	Should an organization submitting a contract include the cost of contracted services in their application?	No.
50	Section 6.1: Administrative Offer, Subsection B (Page 20 of RFO)	For Section 6.1.B of the Administrative Offer, it is my understanding that there is no form to be filled out. Please confirm?	This is confirmed. There is no fillable form for Freedom of Information Law Offer Redactions. The offeror may utilize any format deemed necessary to clearly and specifically identify any portion of the offer that an offeror believes constitutes proprietary information entitled to confidential handling as an exception to the Freedom of Information Law.
51	Section 6.1: Administrative Offer, Subsection B (Page 20 of RFO)	Section 5.9, Freedom of Information Law ("FOIL"), and Section 6.1.B., Freedom of Information Law – Offer Redactions, set forth the process by which Offerors can identify portions of the offer believed to constitute proprietary information entitled to confidential handling. We seek clarification as to whether evaluators of the offer submissions communicate with the Offeror in making the final determination of such designations.	See answer to Question 50.
52	Section 6.1: Administrative Offer, Subsection B (Page 20 of RFO)	Freedom of Information Law- Offer Redactions- What type of documentation are we supposed to submit for this part?	See answer to Question 50.
53	Section 6.1: Administrative Offer, Subsection B (Page 20 of RFO)	My organization offers fiscal intermediary services to the general public in NYC. I am currently working on the contract documents but unable to find the form for freedom of information law's form. Can you send this to me?	See answer to Question 50.
54	Section 6.1: Administrative Offer, Subsection B (Page 20 of RFO)	How should it be shown that a document is not applicable, rather than missing, from our RFO submission (i.e. 6.1.B)?	An offeror only needs to provide information related to Section 6.1.B. if there is proprietary information included in their offer.
55	Section 6.1: Administrative Offer, Subsection B (Page 20 of RFO)	Will vendors have the option of submitting a redacted proposal to protect such information that is deemed proprietary and confidential? What information would the State consider to be sufficient/ appropriate to provide under Section 6.1.B. for portions of the technical proposal that the vendor deems to be proprietary?	Offerors should include information in their technical narrative that is responsive to each item in the RFO. Should they choose to include proprietary or confidential information in their proposal, they should label it as such.  See answer to Question 50.

**RFO #20039 QUESTIONS AND ANSWERS  
OFFER SUBMISSION**

Question Number	RFO Reference	Question	Answer
56	Section 6.1: Administrative Offer, Subsection C (Pages 20-21 of RFO)	<p>Can you please confirm that this is the Vendor Responsibility Questionnaire for For-Profit Business Entity” form that must be filled out by each for-profit applicant: <a href="https://www.osc.state.ny.us/vendrep/documents/questionnaire/ac3290s.pdf">https://www.osc.state.ny.us/vendrep/documents/questionnaire/ac3290s.pdf</a></p> <p>a. If yes, can you please clarify question 3.2 related to investigations by a government entity? Specifically, what type of an investigation would trigger a “yes” response? Clients in this industry are regularly audited by the Department of Labor, for example. Would an ordinary DOL audit require a “yes” response to this question?</p> <p>b. The same question is posed with respect to question 7.0 on this form.</p> <p>c. Could you please clarify the definition of “Reporting Entity” for purposes of this form and questions such as question 8.6? For fiscal intermediaries that are currently under the same entity as a licensed home care agency, and the licensed home care agency was subject to an audit or an investigation that focused on the licensed home care side of the business and did not relate to the fiscal intermediary business, is the audit/determination supposed to be disclosed or not?</p>	<p>See Section 6.1.C. of RFO for information related to the required Vendor Responsibility information.</p> <p>If a for-profit offeror plans to submit a paper version of a Vendor Responsibility Questionnaire, the questionnaire in the link below is correct. <a href="https://www.osc.state.ny.us/vendrep/documents/questionnaire/ac3292s.pdf">https://www.osc.state.ny.us/vendrep/documents/questionnaire/ac3292s.pdf</a></p> <p>Please see definitions at the following link: <a href="https://www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf">https://www.osc.state.ny.us/vendrep/documents/questionnaire/definitions.pdf</a></p> <p>For additional questions, please contact the Office of the State Comptroller.</p>
57	Section 6.2: Technical Offer (Pages 21-26 of RFO)	Should we put in the Consumer Orientation (CDPAP documentation) in the body on the narrative or reference the document?	A description should be included in the technical narrative.
58	Section 6.2: Technical Offer (Pages 21-26 of RFO)	Do we need to have supporting documents for all the numbered regulations on the RFO?	No. By completing and signing Attachment F: Program Specific Certifications and Attestations (bullet 5), the offeror is attesting to their ability and willingness to abide by all of the numbered regulations identified in the RFO.
59	Section 6.2: Technical Offer (Pages 21-26 of RFO)	Is it necessary to have a FEIN when the offer is sent in or when the offer is accepted? Section 6.2	It is not necessary to have an FEIN when the offer is submitted, however contract execution would be contingent upon the Lead FI having an FEIN.

**RFO #20039 QUESTIONS AND ANSWERS  
OFFER SUBMISSION**

Question Number	RFO Reference	Question	Answer
60	Section 6.2: Technical Offer, Subsection A (Pages 21-22 of RFO)	Title Page-What is it that we supposed to submit for this part?	See Section 6.2.A of the RFO. Offeror should submit a title page that includes: -- RFO subject and number; -- Offeror's name and address; -- Other names by which the Offeror may be known (e.g., d/b/a) -- Offeror's Federal Employer Identification Number (FEIN); -- Offeror's MMIS Number (if applicable); -- Offeror's NPI (if applicable) -- Name, address, telephone number and email address of the Offeror's contact person; and -- Date of the Offer
61	Section 6.2: Technical Offer, Subsection A (Pages 21-22 of RFO)	What does the "RFO subject " mean?	The RFO subject is "New York State Fiscal Intermediaries for the Consumer Directed Personal Assistance Program".
62	Section 6.2: Technical Offer, Subsection B (Page 22 of RFO)	Table of Contents-Could this be the Policy & Procedure if not what are we supposed to submit?	See Section 6.2.B of the RFO. Offerors should submit a Table of Contents that clearly identifies all material (by section and page number) included in the technical offer.
63	Section 6.2: Technical Offer, Subsection B (Page 22 of RFO)	Does the table of contents only apply to the "Technical Offer" PDF? Is a table of contents not need for the "Administrative Officer" PDF? If there should be a table that includes both offers, should it be included in the "Administrative Offer" PDF or "Technical Offer" PDF?	A table of contents is only required for the Technical Offer.
64	Section 6.2: Technical Offer, Subsection E (Pages 22-23 of RFO)	On page 21 of the RFO section E it states " Attachment A must be signed by an individual authorized..." Do you mean to say Attachment 7?	Yes, this should read "Attachment 7". See Amendment 3.
65	Section 6.2: Technical Offer, Subsection F (Pages 23-26 of RFO)	Should we insert the checklist items of the PA and Consumer enrollment forms?	The terms PA and consumer enrollment forms are not utilized in the RFO and therefore the Department cannot offer further guidance on this question.
66	Section 6.2: Technical Offer, Subsection F.1 (Pages 23-24 of RFO)	Regarding question F.1.D, what is the successor regulation?	A successor regulation could be any regulation that amends 10 NYCRR Section 766.11(c) and (d) and that the Contractor would be required to follow.

**RFO #20039 QUESTIONS AND ANSWERS  
OFFER SUBMISSION**

Question Number	RFO Reference	Question	Answer
67	Section 6.2: Technical Offer, Subsection F.2 (Pages 24-25 of RFO)	Are applicants required to answer every Best Practice question as listed in F.2 of the RFO?	<p>The decision to include any Best Practices in the response to the RFO is at the discretion of the Offeror.</p> <p>Best practices included in an RFO response by an Offeror, how those best practices are defined or described, or how the offeror indicates they will implement any of those best practices is at the discretion of the offeror. Accordingly, the Department does not have specific expectations of what these responses should or could entail and is not furnishing additional guidance.</p> <p>An offeror may include some, all, or none of the best practices identified in the RFO, and/or may include in its offer best practices that are not referenced in the RFO.</p> <p>A response to the RFO that includes Best Practices should include all information in the response to section F.2</p>
68	Section 6.2: Technical Offer, Subsection F.3 (Pages 24-25 of RFO)	#9. Says "Describe the establishment, maintenance, and periodic review of the offeror's disaster preparedness and emergency plans and procedures.." Does this require us to submit the plans and procedures, or just describe how these plans and procedures were established and maintained, and reviewed by the offeror?	<p>The offeror should describe how their disaster preparedness and emergency plans and procedures were established, maintained and reviewed.</p> <p>The offer should demonstrate how the fiscal intermediary will continue operations and continuity of required FI services, as outlined in RFO Section 4.0, to CDPAP consumers in the event of any emergency or disaster. The plan should clearly demonstrate that it is related to the continued provision of fiscal intermediary services as required in the RFO an resulting contract.</p>
69	Section 6.2: Technical Offer, Subsection F.4 (Pages 24-25 of RFO)	On Page 25, Section F.4, the RFO directs the Offeror to "describe how" the Offeror will do certain fiscal monitoring and oversight duties. What is the State seeking here? Is it enough to provide assurances that the FI will do these tasks (e.g., conduct annual risk assessment)?	<p>Offerors should provide a narrative description identifying how the offeror will conduct the services as identified in Section 6.2.F.4 of the RFO.</p> <p>The offer becomes an Appendix in the resulting contract.</p>
70	Section 6.2: Technical Offer, Subsection F.4 (Pages 24-25 of RFO)	Section F.4 page 25 ask for a description, Should the response be with respect to written fiscal procedures and fiscal oversight involve the entire financial reporting cycle of the company or only the reporting cycle that pertains to Medicaid?	CDPAP is a Medicaid funded program and thus fiscal procedures and oversight pertaining to Medicaid is relevant to an offeror's response; however, if an offeror believes that a description of its entire financial reporting cycle would be informative to the Department's review of the offer, the offeror should include such a description.

**RFO #20039 QUESTIONS AND ANSWERS**  
**OFFER SUBMISSION**

Question Number	RFO Reference	Question	Answer
71	Section 7.0: Offer Submission (Page 26 of RFO)	It is mentioned in section 7.0 that “The table below outlines the requested format and volume for submission of each part. Offers should be submitted in the format as prescribed below.” However, no such table or information can be found in the document. We have tried searching for an updated version of the RFO # 20039 manual but have found none. Instead, we have found several similarly structured documents with additional information. Are these guidelines applicable to RFO # 20039 as well? If not, could you please provide us with the appropriate guidelines?	See Amendment 3.  Section 7.0, the sentence “The table below outlines the requested format and volume for submission of each part.” is stricken.  All materials related to RFO #20039 can be found at: <a href="https://www.health.ny.gov/funding/rfo/20039/">https://www.health.ny.gov/funding/rfo/20039/</a>
72	Section 7.0: Offer Submission (Page 26 of RFO)	One page 26 of RFO #20039 Section 7.0 states: “The table below outlines the requested format and volume for submission of each part.” Where is the table referenced in Section 7.0?	See answer to Question 71
73	Section 7.0: Offer Submission (Page 26 of RFO)	This section refers to a “table below”; however, no table appears in this section. Please provide a copy of the table referenced herein.	See answer to Question 71
74	Section 3.2: Collaborations (Pages 6-7 of RFO)	How much info is necessary from subcontractors as FIs if lead?	Subcontractors are never the Lead FI. The Lead FIs technical narrative should contain as much information on subcontractors as needed to demonstrate the services they will be providing to the Lead FI under the contract.

**RFO #20039 QUESTIONS AND ANSWERS**

***COLLABORATING PARTNERS AND SUBCONTRACTORS***

Question Number	RFO Reference	Question	Answer
1	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Does a Lead FI have to subcontract with other FIs for the regions they service?	No, the inclusion of collaborating partners and/or subcontractors is not a requirement of the RFO. The offeror may, at its discretion, include them to provide its best response to the RFO criteria.  Every offer must include one Lead FI.
2	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	Can you apply as a Lead FI without subcontractors?	See answer to Question 1.
3	Section 3.2: Collaborations (Pages 6-7 of RFO)	Is there a requirement that every offer include a Lead FI and collaborating or subcontracting FI?	See answer to Question 1.
4	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Does the state prefer lead FIs take on subcontractors or does the state prefer Lead FIs go in without subcontractors?	See answer to Question 1.
5	Section 6.2: Technical Offer, Subsection F.3 (Pages 24-25 of RFO)	#11) Are there any penalties for not including subcontractors if you are applying as a lead? Meaning, does a Lead FI have to have sub-contractors?	See answer to Question 1.
6	Section 3.2: Collaborations (Pages 6-7 of RFO)	Is it mandatory for a Lead FI to have subcontractors/collaborators?	See answer to Question 1.
7	Section 3.2: Collaborations (Pages 6-7 of RFO)	Page 6, Section 3.2, is a single organization that submits as a Lead FI required to utilize Collaborating Partners/Subcontractors?	See answer to Question 1.
8	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	Can you apply as a stand alone Lead FI without a collaborating agency?	See answer to Question 1.
9	Section 3.2: Collaborations (Pages 6-7 of RFO)	Must an Offeror have a collaborating partner to be considered a viable applicant?	See answer to Question 1.
10	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Must Lead FI's take subcontract FI's? if so how many?	See answer to Question 1.
11	Section 5.7: Subcontracting (Pages 15-16 of RFO)	If you cannot find subcontractors to assist the leading FI how will the department of health make provisions?	The Lead FI is responsible for identifying any or all subcontractors that it intends to include in its offer.
12	Section 3.2: Collaborations (Pages 6-7 of RFO)	Will the State assign subcontractors to approved Lead FIs?	No. See answer to Question 11.
13	Section 6.2: Technical Offer (Pages 21-26 of RFO)	Besides for Collaborating Partners, what other subcontractors does the Department determine need to be included within the application? Legal services? Financial institutions? Translation services? Telephony and Internet services? In the event that a large organization with numerous lines of business contracts out accounting or audit responsibilities, do these entities have to be named subcontractors?	Offers should identify those subcontractors that directly support the Lead FI in the provision of FI services as outlined in RFO Section 4.0, e.g., payroll vendors and IT vendors.

**RFO #20039 QUESTIONS AND ANSWERS**  
**COLLABORATING PARTNERS AND SUBCONTRACTORS**

Question Number	RFO Reference	Question	Answer
14	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Is the goal to minimize the number of contracted FIs in each region but to also then allow current FIs to operate under a Lead as a subcontract?	<p>Per RFO Section 3.2 there is no limit to the number of offers an eligible entity may join as a subcontractor.</p> <p>Only contracted Lead FIs will continue to operate as fiscal intermediaries.</p> <p>Current FIs serving as collaborating partners are subcontractors under a Lead FI and would no longer function as a fiscal intermediary in this capacity.</p>
15	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	Are eligible entities allowed to participate in submitting Offers both as Lead Fiscal Intermediaries as well as Collaborating Partners and/or subcontractors?	<p>Yes.</p> <p>See RFO Sections 3.2 Collaborating Partners, 4.0 Fiscal Intermediary Services and 5.7 Subcontracting.</p> <p>An entity may submit one offer as a Lead FI and be included in other offers as a collaborating partner or subcontractor. There is not limit on the number of offers an entity may be included in as a subcontractor.</p> <p>Current FIs included in an offer as a collaborating partner would be considered a subcontractor.</p> <p>Collaborating partners, as subcontractors, may not bill Medicaid, Managed Care Plans, Consumers or PAs directly for FI services provided in relation to an award under this RFO.</p> <p>The Lead FI should submit a complete offer, including narrative information about their collaborating partners and subcontractors and Forms as required in RFO Section 6.0 Offer Content.</p>
16	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	Can an eligible entity submit an Offer as a Lead FI and also participate as a subcontractor on another Lead FI's Offer.	See answer to Question 15.
17	Section 3.2: Collaborations (Pages 6-7 of RFO)	Please confirm that an entity may submit an application as a lead FI AND at the same time be included as a collaborating partner/subcontractor in one or more applications submitted by other lead FIs	See answer to Question 15.

**RFO #20039 QUESTIONS AND ANSWERS**

***COLLABORATING PARTNERS AND SUBCONTRACTORS***

<b>Question Number</b>	<b>RFO Reference</b>	<b>Question</b>	<b>Answer</b>
18	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	If an agency applies as a Lead can they also be considered as a subcontractor? If so is there a way to indicate this?	See answer to Question 15.
19	Section 3.2: Collaborations (Pages 6-7 of RFO)	Can an eligible Offeror submit both an offer as a Lead FI and also as a Collaborating partner under another Lead FI? There are some cultural and language competencies among newer fast growing immigrant groups that are unique and an FI may be asked to service those unique groups as both Lead FI and Collaborating Partner.	See answer to Question 15.
20	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	Can an entity be both a lead and subcontractor under the state's guidance in the RFO? Is it possible for an entity to serve as a subcontractor on one offer and as a lead under a separate offer?	See answer to Question 15.
21	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Can a subcontracting FI have a subcontract relationship with more than one Lead FI in the same geographic area?	Yes. See answer to Question 15.
22	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	How many FIs can a Lead FI have under?	See answer to Question 15.
23	Section 5.7: Subcontracting (Pages 15-16 of RFO)	How many leads can you subcontract with?	See answer to Question 15.
24	Section 3.2: Collaborations (Pages 6-7 of RFO)	How many Collaborators can each Lead FI have working under them? Is there a number limit? Is there a max or minimum number of consumer accounts you have in mind?	See answer to Question 15.
25	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Can we subcontract with agencies within our service area?	See answer to Question 15.
26	Section 3.2: Collaborations (Pages 6-7 of RFO)	"There is no limit to the number of offers that an eligible entity may join as a collaborating partner." This makes sense for purposes of bidding, but upon award will the State permit collaborating partners to work with multiple Lead FIs?	Yes. See answer to Question 15.
27	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	Can a provider submit as a lead FI and submit as a subcontractor for another Lead FI?	Yes. See answer to Question 15. A provider can submit one offer as a Lead FI and be included as a subcontractor supporting another Lead FI's offer.

**RFO #20039 QUESTIONS AND ANSWERS**

**COLLABORATING PARTNERS AND SUBCONTRACTORS**

Question Number	RFO Reference	Question	Answer
28	Section 3.1: Eligible Offerors (Page 6 of RFO)	Can 2 or more otherwise eligible entities combine or partner to submit one offer as a Lead FI?	<p>See answer to Question 15.</p> <p>There can only be one Lead FI per offer. If two or more entities combined legally under a single FEIN, they would be considered one for the purposes of submitting an offer.</p> <p>If they were to partner, one would submit as the Lead FI and the others would be included as collaborating partners. Which entity submits as the Lead FI is at the discretion of the two or more entities.</p>
29	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Does the subcontractor have to complete the full RFO and attach their RFO under the Leads RFO?	<p>See answer to Question 15.</p> <p>Only the Lead FI submits a complete offer, and should include narrative information about their collaborating partners and subcontractors and Forms as required in RFO Section 6.0 Offer Content.</p>
30	Section 3.2: Collaborations (Pages 6-7 of RFO)	Can you apply as both lead and subcontractor?	See answer to Question 15.
31	Section 5.7: Subcontracting (Pages 15-16 of RFO)	If you choose to be a subcontractor: a. Do you need to complete an application with DOH? b. How to reach out to LEAD FI's prior to award selection to request to subcontract?	<p>a. See answer to Question 29.</p> <p>b. Interested subcontractors should reach out to entities known in its area that may be submitting an offer to be included in the offer as a subcontractor. Subcontracting relationships should be identified as part of the Lead FI's offer.</p>
32	Section 3.2: Collaborations (Pages 6-7 of RFO)	Please clarify that an FI only collaborating or subcontracting with a Lead FI does not need to respond to the RFO. In such case being included in the response to the RFO by a Lead FI and submission of Attachment C – Collaborating Partner Demonstration of Eligibility to Otherwise Submit and Offer is all that is necessary to be considered an FI continuing services.	Correct, a current FI collaborating or subcontracting does not need to respond to the RFO directly. See answer to Question 15.

**RFO #20039 QUESTIONS AND ANSWERS**

***COLLABORATING PARTNERS AND SUBCONTRACTORS***

Question Number	RFO Reference	Question	Answer
33	Section 5.7: Subcontracting (Pages 15-16 of RFO)	In accordance with Section 5.7, a lead FI may also include subcontractors in its response to the RFO. The following questions apply to lead FIs and subcontractors: a. May a lead FI also apply to be a subcontractor for another lead FI? b. If a lead FI is not awarded a contract, will that automatically disqualify the proposed subcontractors from participating in the program if the subcontractor has either not filed its own application to be a lead FI or if it has not filed to be a subcontractor with another lead FI? c. If the subcontractor is disqualified, may it, after the contract award has been made but prior to the effective date, become a subcontractor to a lead FI that has been awarded a contract?	<p>a. See answer to Question 15.</p> <p>b. Yes. Each offer is evaluated independently.</p> <p>c. Offerors do not have the ability to amend their offers including subcontractors between the time of submission and contract award.</p> <p>Per RFO Section 5.7: "During the term of the prime contract, Contractors may submit a request to the Department to add, change, or remove subcontractors. The Department reserves the right to review and approve the new subcontractors or subcontract agreements."</p>
34	Section 3.2: Collaborations (Pages 6-7 of RFO)	Our intentions are to submit this RFO for a few select agencies as lead FI that we know can administrate, comply and finance this. We have been contacted by many small FIs that will be identified as CO-offerors. Are they to be listed and submitted initially as Co-offerors in the Lead FI response?	No. See answers to Questions 15 and 28.
35	Section 3.2: Collaborations (Pages 6-7 of RFO)	Seeing that Current FI-collaborating partners are not contracting with the state, are they required to submit the complete RFO? or just Attachment C?	<p>See answer to Question 15.</p> <p>The Lead FI submits a complete offer, including narrative information about their collaborating partners and subcontractors and Forms as required in RFO Section 6.0 Offer Content. This includes Attachment C, which the Lead FI would include in their offer after being completed by the collaborating partner.</p>
36	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	Can an FI apply as a lead FI plus be a collaborating partner on another lead FI's application?	See answer to Question 15.
37	Section 3.2: Collaborations (Pages 6-7 of RFO)	May an FI submit an offer as a Lead FI, and be identified as a collaborating partner in an offer submitted by another FI seeking selection as a Lead FI?	See answer to Question 15.
38	Section 3.2: Collaborations (Pages 6-7 of RFO)	Please clarify that an FI can submit an offer to provide services as an individual FI and be included as a collaborating FI on a separate offer from a Lead FI.	See answer to Question 15.
39	Section 3.2: Collaborations (Pages 6-7 of RFO)	Please clarify whether an FI can submit an offer as a Lead FI and be included at the same time as a collaborating/subcontracting FI in a separate offer by another Lead FI?	See answer to Question 15.

**RFO #20039 QUESTIONS AND ANSWERS**

**COLLABORATING PARTNERS AND SUBCONTRACTORS**

Question Number	RFO Reference	Question	Answer
40	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	Are eligible entities allowed to participate in submitting RFOs both as Lead Fiscal Intermediaries as well as Collaborating Partners and/or subcontractors?	See answer to Question 15.
41	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	May a FI may seek to be both a Lead FI and a collaborating partner under another contract the Department maintains with a different Lead FI?	See answer to Question 15.
42	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	Can an entity submit two applications – one as a lead FI (1) as the current FI as a standalone and (2) as an entity that will enter into subcontractor arrangements?	See answer to Question 15.
43	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	Can we submit two applications, one as a lead and one as a collaborating partner?	See answer to Question 15.
44	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	Is my agency able to apply as a Lead FI and added as a subcontractor with another agency simultaneously?	See answer to Question 15.
45	Section 3.2: Collaborations (Pages 6-7 of RFO)	This section states: “Lead FIs may only submit one offer.” It also states: “There is no limit on the number of offers that an eligible entity may join as a collaborating partner.” Can an entity that submits an offer as a Lead FI also join other offers as a collaborating partner (subcontractor)? If so, presumably there is no limit on the number of offers that such entity may join as a collaborating partner? Section 3.2 also states, “Collaborating partners should complete Attachment C.” Is any other documentation required to be included in an offer to authenticate a subcontractor relationship or the intent to enter into such a relationship (e.g., an executed contract, letter of intent, etc.) or will an offer in any way be disadvantaged or scored lower if documentation of that nature is not included in the offer?	See answers to Questions 15 and 35.  Other than what is required in RFO Section 6.0, no other documentation is required to authenticate a subcontractor relationship or the intent to enter into such a relationship.  Subcontracting agreements must be maintained and made available to the Department upon request.
46	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	Are we able to submit RFO as a lead FI and as a subcontractor at the same time? If no, we submit as a lead FI and not get chosen, what is the process to become a subcontractor at that point?	See answers to Question 15 and 33.
47	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	If an FI applies as both a lead and a subcontractor, and the applicant is accepted as a Lead what happens to their subcontracting agreement if the Lead agency on the subcontracting agreement is also accepted?	An entity can be a collaborating partner/subcontractor in other contracts while also acting as a Lead FI in their own contract.

**RFO #20039 QUESTIONS AND ANSWERS**

**COLLABORATING PARTNERS AND SUBCONTRACTORS**

Question Number	RFO Reference	Question	Answer
48	Section 3.2: Collaborations (Pages 6-7 of RFO)	The RFO says that “each RFO may only include one lead FI which will be required to fulfill all program and contractual requirements. Lead FIs may only submit one offer, and “will be required to fulfill all program and contractual requirements.” Please explain, does this mean that each FI entity can only submit one application? If one LHCSA is affiliated with 3 different FIs, can each FI submit a separate RFO as the Lead FI?	An eligible entity may submit one offer as Lead FI.  A LHCSA could be included as a collaborating partner or subcontractor in more than one offer. A further response is not possible given the broad nature by which an FI could be affiliated with a LHCSA.  Please refer to "Firewall" Questions and Answers, Question 1.
49	Section 5.4: Payment (Page 14 of RFO)	Can one parent organization apply as an FI and have its affiliate apply as a subcontractor?	The response to this question will depend on the specific legal structure of your organization.
50	Section 3.2: Collaborations (Pages 6-7 of RFO)	Can a collaborator/subcontractor be a stand alone LHCSA with operations sufficient to follow the Lead FI’s best practices and policies.	See RFO Section 3.2 Collaborating Partners
51	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	For subcontractors that meet the qualifications described in section 3.1 to deliver FI services, what services and support functions that assist or enable the Contractor to perform FI services can they perform? Similarly, what such services and support functions does DOH anticipate that subcontractors will perform?	Per RFO Section 3.2: "Such collaborations may be formed to best meet the needs of consumers, provide operational efficiencies, provide geographic distribution that would ensure access in rural and underserved areas, and provide cultural and language competencies specific to the consumers it will serve and those of the available workforce."  RFO Section 5.7 also outlines services subcontractors, including collaborating partners as defined in Section 3.2, CANNOT perform.  Ultimately, the services provided by collaborating partners and subcontractors are to be determined by the Lead FI/prime contractor, in negotiation with the subcontractor, following the parameters set forth in the RFO.
52	Section 3.2: Collaborations (Pages 6-7 of RFO)	What role does the Department envision collaborating partner and subcontractors playing? What tasks does the Department envision being delegated? Section 5.7 of the RFO outlines those actions that a subcontractor cannot perform, but does not delineate those actions and services that a subcontractor can perform.	See answer to Question 51.
53	Section 6.2: Technical Offer, Subsection F (Pages 23-26 of RFO)	Please clarify what subcontractors can do as the RFO only lists what they cannot directly perform (page 23) and also asks the Offeror to list the experience of the subcontractors in providing some of the services that the subcontractors are not allowed to do (page 23 to 24).	See answer to Question 51.

**RFO #20039 QUESTIONS AND ANSWERS**

**COLLABORATING PARTNERS AND SUBCONTRACTORS**

Question Number	RFO Reference	Question	Answer
54	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	What are the subcontractor responsibilities?	See answer to Question 51.
55	Section 3.2: Collaborations (Pages 6-7 of RFO)	The Department clearly identified the tasks that a Collaborating FI may not perform. Will the Department clarify what role it envisions a Collaborating FI playing?	See answer to Question 51.
56	Section 3.2: Collaborations (Pages 6-7 of RFO)	Beyond those listed in the RFO, are there defined roles that a collaborating partner will have in the provision of services or will this be done by contract, understanding that the Lead FI is ultimately responsible for the services?	See answer to Question 51.
57	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Based on how the roles between the FI Lead and subcontractor are outlined, it seems that the subcontractor will not effectively do anything except get patients for the Lead FI and then get paid for “getting” those Medicaid patients. This will result in the subcontractor FI getting paid kickbacks for referrals of Medicaid patients (i.e., the consumers) to the Lead FI. Is this really what the DOH intended to do?	See answer to Question 51.
58	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Please confirm which tasks can be done by a subcontractor as the RFO (section 5.7, page 15) lists what subcontractors cannot do and these include many of the lead FI’s responsibilities.	See answer to Question 51.
59	Section 5.7: Subcontracting (Pages 15-16 of RFO)	How does the Department see the role of a subcontractor (collaborating partner)? As outlined in the RFO the subcontractor will not have a contract with the Dept. or managed care organizations, may not have memo of understanding with Consumers, may not bill for services, may not maintain records for the PA, etc. Will the subcontracting entity be a referral source for the Lead FI in return for payment?	See answer to Question 51.
60	Section 5.7: Subcontracting (Pages 15-16 of RFO)	What specific services and support functions can a subcontracting FI provide?	See answer to Question 51.
61	Section 5.7: Subcontracting (Pages 15-16 of RFO)	It seems that – once this process is completed and the Lead FI contracts are issued - all the FI services will be done by the Lead FI that receives a contract from the State. It’s not clear what subcontractor FIs will be doing. What type of a role is the State envisioning the subcontractor FIs to have? Per law, since they are not a fiscal intermediary (since they don’t have a contract with the state), they cannot process payroll and benefits and do the work that the Lead FI will be doing. So, again, what exactly is a subcontractor FI supposed to do?	See answer to Question 51.

**RFO #20039 QUESTIONS AND ANSWERS**

**COLLABORATING PARTNERS AND SUBCONTRACTORS**

Question Number	RFO Reference	Question	Answer
62	Section 3.2: Collaborations (Pages 6-7 of RFO)	If the Lead Offeror is responsible for providing the FI services as well as benefits and payroll etc. what exactly does the Collaborator do really?	See answer to Question 51.
63	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Can a lead FI and a subcontractor perform the same function(s) if done so as part of a complementary strategy under the RFO?	See answer to Question 51.
64	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Are the types of services provided by the subcontractor determined by the lead entity?	See answer to Question 51.
65	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Would a subcontractor be responsible for submitting payroll? What will be the responsibilities of the subcontractor be?	See answer to Question 51.
66	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Are there any limitations on the responsibilities that the lead can delegate down to the subcontractor?	See answer to Question 51.
67	Section 5.7: Subcontracting (Pages 15-16 of RFO)	What is the expectation/responsibilities of a subcontractor, specifically?	See answer to Question 51.
68	Section 3.2: Collaborations (Pages 6-7 of RFO)	Will the Lead FI have control over which collaborating partner provides services? Will patients get a choice?	See answer to Question 51.  The Department will select Lead fiscal intermediaries to ensure consumers have a choice of FI's such that if they do not like the subcontracting arrangements, they will have options to switch to another FI. Consumers do not have a choice in how a Lead FI delegates responsibilities to its subcontractors.
69	Section 5.7: Subcontracting (Pages 15-16 of RFO)	What exactly is a definition of a subcontractor under Section 5.7? Is the phone company a subcontractor?	See answer to Question 51.
70	Section 5.7: Subcontracting (Pages 15-16 of RFO)	(Page 15-17, Section 5.7 Subcontracting) What role does the State anticipate that Subcontractors would play in the delivery of services, given that they are not permitted to directly perform any of the services outlined on page 16? a. What information would the State require to illustrate a FI's good faith effort to engage with subcontractors, per the RFO's requirements? b. Will the State provide a list of all current FI's in the State?	See answer to Question 51. In an effort to avoid providing inaccurate or outdated information on current FIs, the Department has elected not to publish a list in connection with this RFO.
71	Section 5.7: Subcontracting (Pages 15-16 of RFO)	If subcontractors are unable to maintain records of the PA and complete payroll what will their responsibility be? what will their role and entity service category? Is the subcontractor no longer an employer for the PA?	See answer to Question 51.

**RFO #20039 QUESTIONS AND ANSWERS**

***COLLABORATING PARTNERS AND SUBCONTRACTORS***

Question Number	RFO Reference	Question	Answer
72	Section 5.7: Subcontracting (Pages 15-16 of RFO)	The RFO states that the “Lead FI shall retain and acknowledge responsibility as joint employer of the PA, ...as if contractor had not engaged a subcontractor for the performance of any duties, best practices, or other services related to this RFO and FI services”. Please clarify what the advantage is for being a “Lead FI” if the subcontractor does not have any responsibilities?	The subcontractor will have obligations to the Lead FI under the terms of their subcontract.
73	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Will subcontractors/collaborators have to adopt the administrative practices of the Lead FI they are collaborating with to fulfill their administrative duties of this contract?	See answer to Question 51. The subcontractor may have to adopt practices of the Lead FI in order to conform to the terms of the subcontract, but that relationship is largely determined by the parties to that subcontract.
74	Section 3.2: Collaborations (Pages 6-7 of RFO)	Since Collaborating Partners are considered Subcontractors, per section 3.2, are they required to demonstrate eligibility to perform the functions which they are prohibited from performing under section 5.7 (entering into FI contract, setting wages and establishing benefits, etc...)? Please define the terms “Collaborating Partner” and “Subcontractor” as these terms are not defined and information in the RFO appears internally inconsistent.	Collaborating partners are required to demonstrate, using Attachment C, how they are otherwise eligible entities. See answer to Question 51.
75	Section 3.2: Collaborations (Pages 6-7 of RFO)	Since Collaborating Partners are considered Subcontractors, per section 3.2, are they required to demonstrate eligibility to perform the functions which they are prohibited from performing under section 5.7 (entering into FI contract, setting wages and establishing benefits, etc.)? Please define the terms “Collaborating Partner” and “Subcontractor” as these terms are not defined and information contained in the RFO appears internally inconsistent.	Collaborating partners are required to demonstrate, using Attachment C, how they are otherwise eligible entities. See answer to Question 51.
76	Section 3.2: Collaborations (Pages 6-7 of RFO)	Since Collaborating Partners are considered Subcontractors, per section 3.2 ¶ 2, are they required to demonstrate eligibility to perform the functions which they are prohibited from performing under section 5.7 ¶ 8(entering into FI contract, setting wages and establishing benefits, etc.)? Please define the terms “Collaborating Partner” and “Subcontractor” as these terms are not defined and information contained in the RFO appears internally inconsistent.	Collaborating partners are required to demonstrate, using Attachment C, how they are otherwise eligible entities. See answer to Question 51.

RFO #20039 QUESTIONS AND ANSWERS

**COLLABORATING PARTNERS AND SUBCONTRACTORS**

Question Number	RFO Reference	Question	Answer
77	Section 5.7: Subcontracting (Pages 15-16 of RFO)	On page 16 of the RFO, Section 5.7, the RFO states that the Lead FI must agree to “intervene in any proceeding and to indemnify and hold harmless subcontractors with regard to any liability incurred as a result of a decision...rendered with respect to such claims.” This requirement makes no sense at all. Why would the State require that the Lead FI do this? What if the subcontractor FI is sued due to fraudulent activities or negligence that it is solely responsible for? Why would the State require the Lead FI to intervene and take on that type of liability for the subcontractor FI?	<p>Lead FIs are prohibited from delegating liability for their employer responsibilities.</p> <p>See Amendment 3.</p> <p>This Section has been revised to clarify the provision applies only to collaborating partners, and now reads (additions are underlined and deletions are stricken through):</p> <p>"In addition, the Lead FI shall:</p> <ul style="list-style-type: none"> <li>• Require <u>collaborating partners</u> <del>subcontractors</del> to promptly notify Lead FI of any court case, administrative hearing, or other proceeding in which the <u>collaborating partner</u> <del>subcontractor</del> is named with respect to any PA’s labor or employment-related claim (including, but not limited to, <u>civil actions related to the PA wages and benefits</u> <del>claims for lost wages, unemployment insurance, workers compensation, etc.</del>); and</li> <li>• Agree to intervene in any such proceeding and to indemnify and hold harmless <u>collaborating partners</u> <del>subcontractors</del> with regard to any liability incurred as a result of a decision, verdict, or other determination rendered with respect to such claims."</li> </ul>
78	Section 5.7: Subcontracting (Pages 15-16 of RFO)	What is the intent of requiring the lead FI to “agree to intervene in any such proceeding and to indemnify and hold harmless subcontractors with regard to any liability incurred as a result of a decision, verdict, or other determination rendered with respect to such claims”	See answer to Question 77.
79	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Why should a lead FI indemnify the subcontractor for liability for anything? Wouldn’t that discourage the subs from doing a good job and being compliant? If all liability and responsibility rests with the lead FIs, subcontractors will effectively be paid ONLY for referrals.	See answer to Question 77.
80	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Will all Lead FI’s be required to assume all of the legal risks incurred by subcontractors?	No, see answer to Question 77.

**RFO #20039 QUESTIONS AND ANSWERS**

***COLLABORATING PARTNERS AND SUBCONTRACTORS***

Question Number	RFO Reference	Question	Answer
81	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Can you please outline the indemnification process for the Lead FI, if the subcontractor is paying the PA?	See answer to Question 77.  The Lead FI must include in their agreements with collaborating partners the indemnification provisions outlined in RFO Section 5.7 and amended in Amendment 3.
82	Section 5.7: Subcontracting (Pages 15-16 of RFO)	The RFO seems to, in places, (like 5.7) use subcontractor and collaborator interchangeably. What is the difference between a “subcontractor” and a “collaborating partner?”	Per RFO Section 3.2: "Collaborating partners must meet the eligible offeror qualifications in Section 3.1 but will be considered subcontractors for the purposes of that offer."  Other subcontractors, e.g., payroll vendors or IT vendors, would not be required to meet the eligible offeror qualifications.
83	Attachments (Pages 29-36 of RFO)	Attachment E refers to collaborating partner and a subcontractor suggesting that collaborating partner is merely one type of a subcontractor; are there other types of subcontractors? Presumably, those other kinds of subcontractors need not complete any forms? Can the Offeror still include information about them?	Examples of subcontractors that are not collaborating partners are payroll vendors and IT vendors.  Entities considered subcontractors for the purposes of this RFO are those that are assisting in the performance of FI services.  The Lead FI, in submitting an offer, should include these subcontractors and information on them both in Attachment E and in the technical narrative where appropriate.
84	Attachments (Pages 29-36 of RFO)	Attachment C for collaborating partners, which is correct? An entity that has been established as a Fiscal Intermediary prior to January 1, 2012 and has been continuously providing services for CDPAP individuals under section 366-f of the Social Services Law; OR PAGE 4-Per the provisions of section 365-f (4-a)(b)(iv) all entities providing FI services to NY Medicaid on or before April 1, 2019, herein after referred to as “current FIs”, must submit an offer to contract with the Department to provide FI services by responding to this RFO within 60 days of its issuance and posting to the Department’s website.	See answers to Questions 82 and 83.

**RFO #20039 QUESTIONS AND ANSWERS**

***COLLABORATING PARTNERS AND SUBCONTRACTORS***

Question Number	RFO Reference	Question	Answer
85	Section 6.2: Technical Offer, Subsection C and D (Page 22 of RFO) and Attachments (Pages 29-36 of RFO)	Please clarify whether subcontractors and “collaborators” are one and the same. They appear to be. Both terms appear to refer to other fiscal intermediaries. In that regard, the information being requested by sections 6.2.D and 6.2.C (attachment C) of the Technical Offer seems to be asking the same information – the same subcontractors/collaborators will be identified on both forms. Is that correct? If subcontractors and collaborators can be entities other than other Fiscal Intermediaries (such as HHAexchange or EVV companies), can you please confirm that?	See answer to Question 83 and refer to RFO Sections 3.2 and 5.7 for information on subcontractors and collaborating partners.  Collaborating partners fill out Attachment C.  Both collaborating partners and other subcontractors would be included in Attachment E.
86	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Are “subcontractors” FIs only? Can a “sub” be another organization?	See answer to Question 83.
87	Section 5.7: Subcontracting (Pages 15-16 of RFO)	If the Lead FI has a payroll company helping to issue the actual, live paychecks; is this payroll company considered a subcontractor and does it need to be included in the RFO? Do we need to list other companies such as when we check the Medicaid Exclusion List, etc. as a subcontractor? If NY Businesses are used for these services, would we list these on Attachment 6?	See answer to Question 83.  New York businesses would be listed on Attachment 6.
88	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Do I have to list my payroll vendor on attachment C?	See answer to Question 83. Any subcontractors should be listed on Attachment E.  Only collaborating partners complete Attachment C.  A payroll vendor is a subcontractor that is not a collaborating partner, and therefore would not complete Attachment C.
89	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	The lead FI appears to be functioning as an IPA or MSO, providing the contracting service "this RFO", billing for the other organizations, back office filing-data entry etc...seeing that they will be billing for others, do they also need a management agreement?	No. The New York State contract the Lead FI enters into will serve as an agreement with the counties in the approved service area. Lead FIs will be required to also enter into administrative services agreements with managed care organizations.  Lead FIs will enter into subcontracting arrangements with collaborating partners and other subcontractors, per the terms contained in the RFO and resulting New York State contract.  Fiscal intermediaries are not functioning as IPAs because their function is inherently administrative rather than clinical, and thus does not need to meet the definition of an IPA under 10 NYCRR Part 98.

**RFO #20039 QUESTIONS AND ANSWERS**

**COLLABORATING PARTNERS AND SUBCONTRACTORS**

Question Number	RFO Reference	Question	Answer
90	Section 5.7: Subcontracting (Pages 15-16 of RFO)	In section 5.7, it clearly states that a collaborating partner may not “enter into FI contract with the Department.” However, later in the list, it notes that the collaborating partner may not “enter into contract with managed care organizations.” Can the Department clarify that a collaborating partner may still enter into contracts with managed care organizations for services other than FI services?	Only Lead FIs contracted with the state will enter into fiscal intermediary administrative service agreements with MCOs.  The RFO does not speak to arrangements between collaborating partners and managed care organizations outside of FI services under the CDPAP.
91	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Per section 5.7, the Department notes that awards may be made conditional on the review and approval of subcontractors or subcontractor agreements. Please clarify what, if any, aspects of a subcontract agreement would cause it to be rejected by the Department in such a review for both Collaborating Agencies and other subcontractors subject to this section.	The Department cannot provide a comprehensive list of reasons for subcontractor rejection. See RFO Section 5.7 for several examples of reasons.
92	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Will a Lead FI have the sole responsibility to determine how to oversee the subcontractors?	Lead FIs will have significant discretion over how they oversee their subcontractors. However, they must maintain written arrangements with subcontractors that meet the requirements of this RFO. See, for example, RFO Section 5.7
93	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Will the State have any oversight over the legal agreements arranged by the Lead FI’s and the subcontractors?	See answer to Question 92.
94	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Section 5.7 Subcontracting. Please define what would be regarded as a “subcontracting agreement” under the RFO. This section also uses the objectionable term “joint employer”.	See answers to Questions 51, 77, 82 and 83.
95	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	If a Lead FI is suspended by the State and prevented from continuing to provide CDPAP services, how will that impact companies that are subcontracting w/that particular Lead FI?	Please see Attachment 8, "New York State Department of Health Contract" Section VIII. Subcontracting at <a href="https://www.health.ny.gov/funding/forms/attachment_8.pdf">https://www.health.ny.gov/funding/forms/attachment_8.pdf</a>
96	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Who reports to the Lead FI? and is that pre-determined based on location?	All collaborating partners and subcontractors report to the Lead FI.

**RFO #20039 QUESTIONS AND ANSWERS**

**COLLABORATING PARTNERS AND SUBCONTRACTORS**

Question Number	RFO Reference	Question	Answer
97	Section 3.2: Collaborations (Pages 6-7 of RFO)	Does the DOH intend to release a template agreement to be used by lead agencies to contract with non-lead agencies?	No.
98	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Section 5.7 of the RFO states that the Department reserves the right to review and approve all subcontractor agreements. Will the DOH provide a preapproved contract with standard terms for use by the parties?	No.
99	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Do subcontractor FIs have to be authorized by the state?	Subcontractors who are collaborating partners must meet the qualifications for collaborating partners as outlined in RFO Section 3.2. The Department may also review and approve any subcontractor per RFO Section 5.7.
100	Section 3.2: Collaborations (Pages 6-7 of RFO)	Will collaborating partners be licensed or certified to provide services?	The Department may review and approve any subcontractor per RFO Section 5.7.
101	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Paragraph 8: Please confirm that the provision the last bullet point under Paragraph 8 in this section intends to convey the requirement set forth in in Paragraph 4 of subsection 3.2, which states, "Collaborating partners, as subcontractors, may not bill Medicaid, Managed Care Plans, Consumers or PAs for services provided in relation to an award under this RFO."	It is confirmed that collaborating partners, as subcontractors, may not bill Medicaid, Managed Care Plans, Consumers or PAs for services provided in relation to an award under this RFO.
102	Section 3.2: Collaborations (Pages 6-7 of RFO)	Must a collaborating partner continue to maintain a Medicaid provider number?	Not for FI services provided in relation to the CDPA Program if the collaborating partner is not a Lead FI in another offer.
103	Section 5.7: Subcontracting (Pages 15-16 of RFO)	If the subcontractor is not required to maintain any personnel records, workers' compensation, disability, or unemployment, is the subcontractor subject to auditing?	Subcontractors may be subject to audit.
104	Section 6.2: Technical Offer, Subsection E (Pages 22-23 of RFO)	For the subcontractors who contract with the Lead FI, are the workers for that subcontractor FI supposed to be reported on the payroll of the Lead FI or the subcontractor FI?	Collaborating partners would no longer provide fiscal intermediary services.  Personal assistants will be employed by the consumer and the Lead FI and paid by the Lead FI.  All other staff for the collaborating partner agency would be reported on their payroll, not the Lead FI.

**RFO #20039 QUESTIONS AND ANSWERS**

***COLLABORATING PARTNERS AND SUBCONTRACTORS***

Question Number	RFO Reference	Question	Answer
105	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Social Security Law 365-f, as revised, defines a fiscal intermediary to be only that entity which has a contract with the State. I interpret that to mean that entities who do not have a contract with the State (such as subcontractors under your RFO) are not fiscal intermediaries. That also seems to mean that subcontractors of a FI cannot have "personal assistants" on their payroll. The subcontractor can have workers, but those workers cannot perform personal assistance functions because the subcontractor is not a fiscal intermediary since it doesn't have a contract with the State. Moreover, as the RFO states, the Lead FI has to provide the workers' compensation and short-term disability for the PAs, so it will have to cover them as if the PAs are their own employees. So, it seems to me that only a Lead FI, as a fiscal intermediary, can have personal assistants on its payroll. The subcontractor cannot have individuals who are providing services as a PA on its payroll. Is that correct?	See answer to Question 104.
106	Section 5.7: Subcontracting (Pages 15-16 of RFO)	How will Lead FIs monitor and report data to DOH for subcontracting FIs in a timely manner?	Lead FIs should include in their subcontracting agreements language that ensures the subcontracts will meet any reporting requirements.
107	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Would the caregivers, if working for a sub, be considered 1099 contractors of the lead?	See answer to Question 104.
108	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Who pays the caregivers - the lead or sub? Or put another way, what agency name is on the payroll check?	See answer to Question 104.
109	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Assuming that a subcontractor entity cannot have on its payroll personal assistants, pay them, and process benefits, what is the purpose of a subcontractor FI entity? What function will they serve once the State hands out the Lead FI contracts?	See answers to Questions 51 and 104.
110	Section 3.2: Collaborations (Pages 6-7 of RFO)	Is it the responsibility of the Lead FI to ensure that all collaborating partners are providing high quality services compliant with regulations and standards of care and will there be guidance as to how a Lead FI should implement such requirements?	Yes. The Lead FI as the prime contractor is responsible for the conduct of its subcontractors. See answer to Question 51.
111	Section 5.7: Subcontracting (Pages 15-16 of RFO)	What are the implications to a Lead FI in the event of misconduct by caregivers under a subcontractor in services provided to another lead FI?	See answer to Question 104.
112	Section 5.7: Subcontracting (Pages 15-16 of RFO)	It is spelled out very clearly the PA's are co-employees - which agency are they co-employees with – the lead FI or subcontractor?	The Lead FI. See "Joint Employer" Questions and Answers, Question 1.
113	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Who is responsible to pay the Insurances (Professionally, general, auto, disability, unemployment, workers comp) required by the state - lead FI or subcontractor?	Lead FIs are required to maintain insurance under the terms of the prime contract and what the Lead FI requires of its subcontractors will be determined by the parties to that agreement. See "Joint Employer" Questions and Answers, Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**

***COLLABORATING PARTNERS AND SUBCONTRACTORS***

<b>Question Number</b>	<b>RFO Reference</b>	<b>Question</b>	<b>Answer</b>
114	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Who is responsible for offering health insurance to the aides as required by the ACA - lead or sub?	See "Joint Employer" Questions and Answers, Question 1.
115	Section 5.7: Subcontracting (Pages 15-16 of RFO)	As a subcontractor, can you terminate a case that is proven to have committed fraud? Who is also responsible for recouping the money?	See "FI Program Expectations" Questions and Answers, Question 60.
116	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	Will the Lead FI be responsible for the payroll and administrative responsibilities of the subcontractor?	See answer to Question 104.
117	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Can subcontractors take referrals directly from plans?	No.
118	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Section 3.2, Collaborations, and Section 5.7, Subcontracting, state that collaborating partners are considered subcontractors and must meet eligibility requirements. However, there is another provision stating that "Other subcontractors (e.g. payroll vendors and IT providers) do not need to be eligible entities." We seek further information regarding the following: a. Examples of other types of subcontractors who do not need to be eligible entities; and, b. The process by which payments for services performed by Collaborators and/or Subcontractors are to be made by the Department of Health.	A. See answers to Questions 51, 82 and 83. B. All payments to collaborating partners and subcontractors will be made by the Lead FI/prime contractor based on the payment terms in the negotiated subcontracts, not by the Department of Health. See also "Payment Rates" Questions and Answers, Question 60.
119	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Which agency is responsible to pay the payroll tax?	Collaborating partners do not pay personal assistants. See "Joint Employer" Questions and Answers, Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**  
**SERVICE AREA**

Question Number	RFO Reference	Question	Answer
1	Attachment E	How do I fill out Attachment E if the subcontractor is providing services in more than one county? Do we include all counties on one line?	In Attachment E, if the subcontractor is serving more than one county for the same service, all counties may be listed on one line. Otherwise, only the counties the subcontractor is providing services for should be listed in that line.
2	Attachments (Pages 29-36 of RFO)	Do the counties proposed to be served need to be contiguous? Or can an Offeror propose to serve certain counties across a region?	No, counties proposed do not need to be contiguous.
3	General	Can an FI provide statewide services?	Yes.
4	General	How many counties can an FI service?	The RFO does not limit the number of counties an FI can serve.
5	General	Would it be required for a Lead FI to have a presence throughout the entire state?	It is not required.
6	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Paragraph 5: Can a selected FI expand its authorized service area into additional counties in subsequent months/years if not initially selecting to make their services available statewide? If so, what is the expected timeline for DOH approval?	The current RFO speaks only to the initial service areas required by Offerors; expanded services areas may be addressed in a separate solicitation.
7	Attachments (Pages 29-36 of RFO)	Will a Selected Contractor be allowed to expand their service area after the award? Or will a lead be limited to serve the counties and service area they proposed in Attachment D?	See answer to Question 6.
8	Section 2.3: Term of the Agreement and Termination Provisions (Page 6 of RFO)	What if a FI is able to expand a service area and/or can no longer serve a previously authorized area? Is there an amendment procedure to cover the process of a FI expanding or ending services in an authorized service area?	See answer to Question 6.
9	Section 6.2: Technical Offer, Subsection D (Page 22 of RFO)	Will an FI be able to expand further to more service areas/counties after it is selected by DOH through this RFO to cover certain areas of NYS? If so, what approval process will the FI need to follow with the Department?	See answer to Question 6.
10	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Is there a minimum number of Consumers an organization must commit to serving to file as a Lead FI?	No.
11	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Is a Lead FI required to serve the entire state?	No.

**RFO #20039 QUESTIONS AND ANSWERS**  
**SERVICE AREA**

Question Number	RFO Reference	Question	Answer
12	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Must Lead FI's be able to service a minimum amount of service locations and or territory to be considered lead FI's	Lead FIs should detail in their offer, on Attachment D, the counties they propose to serve. These counties would comprise the Lead FIs service area.
13	Section 3.2: Collaborations (Pages 6-7 of RFO)	Will approval be based upon a specific geographic area served? Or could a chosen Offeror operate in any area that an MLTC is willing to refer a case? If a collaborator collaborates with more than one Lead FI, does that mean the collaborating partner has two separate geographic areas? Are applicants limited to applying in geographic regions in which they currently provide services or may they apply for new areas?	See answer to Question 12.
14	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	If the vendor intends to not subcontract with other FIs and would like to serve all counties within the state should we simply indicate that on the form by selecting all counties?	See answer to Question 12.
15	Section 4.2: Best Practices (Page 8 of RFO)	Section 4.2 What defines a service area? What defines a region?	The service area is defined by the counties a Lead FI chooses to serve.
16	Section 4.2: Best Practices (Page 8 of RFO)	What does service area mean to DOH?	See answer to Question 12.
17	Section 6.2: Technical Offer, Subsection C and (Page 22 of RFO)	We are a licensed home care agency. We are allowed to serve Queens, Bronx , New York ,Kings county, Nassau, as for proposed services areas for Fiscal Intermediaries are we limited to same areas? or we may choose to serve other areas such as Westchester?	No. Offerors can seek a fiscal intermediary service area that extends beyond the counties in which they currently operate so long as they are able to meet the requirements outlined in RFO Section 4.0, either directly or through collaborating partner agreements.
18	Section 8.3: Technical Evaluation (Page 27 of RFO)	Will DOH in any way be considering applications in the context of pre-determined regions of the state, and, if so, how are those regions defined?	See answer to Question 12.
19	General	Would the state consider regionalizing Lead FIs? This would entertain a Lead FI for Western, Central, Eastern and Downstate, etc.	See answer to Question 12.
20	Section 6.2: Technical Offer, Subsection E (Pages 22-23 of RFO)	Can we bid on counties we are not currently serving?	Yes. Offerors can seek a fiscal intermediary service area that extends beyond the counties in which they currently operate so long as they are able to meet the requirements outlined in RFO Section 4.0, either directly or through collaborating partner agreements.

**RFO #20039 QUESTIONS AND ANSWERS**  
**SERVICE AREA**

Question Number	RFO Reference	Question	Answer
21	Section 6.2: Technical Offer, Subsection E (Pages 22-23 of RFO)	Section 6.2.E, Program Specific Certifications and Attestations, requires Offerors to complete Attachment F attesting that “they will accept consumers in additional service areas if the Department cannot make awards in all rural or underserved areas.” We seek additional information by which an Offeror may be directed to accept consumers in additional service areas and the time frame granted to enable the Offeror to meet such expanded FI requirements.	At the time of award, it is expected that there will be statewide coverage.  Whether this option is leveraged during the contract period is not known at this time, but it is expected that the Department would work with contracted FIs on details and timeline for required service area expansion .
22	Section 6.2: Technical Offer, Subsection E (Pages 22-23 of RFO)	The RFO states that, “Offeror attests that they will accept consumers in additional service areas if the Department cannot make awards in all rural or underserved areas.” What’s the limitation on this expectation? Will the FI be able to decline to provide service to a consumer based on location outside the agreed service area? Will this be restricted to a certain mileage from the FI’s office, or limited to contiguous counties, or some other standard?	See answer to Question 21. An FI can only serve consumers within their contracted service area, which will be county based.
23	Section 6.2: Technical Offer, Subsection E (Pages 22-23 of RFO)	Page 22, Section E, can the Department clarify its intent in requiring an offering FI, who identifies serving specific service areas, to attest to it later being requested by the Department to accept consumers in additional areas the offeror may not be prepared to serve?	See answer to Question 21.
24	Section 8.3: Technical Evaluation (Page 27 of RFO)	Does DOH expect any offers that include a service area comprised of the entire state? Would DOH give any preference to such a statewide offer?	Each offer will be evaluated independently based on the demonstrated ability to meet the criteria set forth in the RFO.
25	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	The RFO states, “Entities chosen to contract... will agree to provide services to any CDPAP Consumers...” What does agree to provide services mean? What if the Consumer has unrealistic expectations about pay rates for their PA? The Consumer of course may not know or care that the reimbursement rate from their MCO is too low to sustain such a payrate. What if the FI believes the Consumer may not comply with his or her responsibilities or best practices? What is the recourse for the FI in light of the joint employer requirement? There needs to be safeguards for all parties involved.	"Agree to provide services" means agreeing to provide fiscal intermediary services as defined in RFO Section 4.0: Fiscal Intermediary Services.
26	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	Eligibility – If an FI provides services in only one county, would it be in their best interest to subcontract with a larger FI?	The RFO reflects the eligibility criteria as identified in SSL 365-f. Whether an eligible entity decides to submit an offer as a Lead FI, or be included in other offers as a collaborating partner or subcontractor is at the discretion of the eligible entity.
27	Attachments (Pages 29-36 of RFO)	If an FI provides CDPAS on Native Lands should it be identified as the Native Land or the County in which the Native Land is located? Specifically, for Attachment E, should the Native Lands be listed separately from the County or just the County? Also for Attachment E, can there be multiple counties listed per row, or a separate row for each?	Lead FIs should detail, on Attachment D, all counties where services are proposed to be provided. On Attachment E, the Lead FI should list any county the subcontractor or collaborating partner is providing their services.  See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**

**FISCAL INTERMEDIARY ORGANIZATIONAL REQUIREMENTS**

Question Number	RFO Reference	Question	Answer
1	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	On page 10 of the RFO, section 4.5 (b), the RFO states that the Offeror must have “qualified administrative staff.” What type of evidence or information are you requiring for the offeror to submit in this regard?	The offer should include any information the Lead FI believes will demonstrate the FIs ability to perform the services as outlined in RFO Section 4.0 including how staff have or will have the training, experience and skill sets necessary to properly administer all aspects of the fiscal intermediary responsibilities.
2	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	What is the minimum leadership positions for “qualified administrative staff” under the Lead FI to satisfy DOH expectations?	The RFO does not mandate any specific organizational structure on the Lead FI and asks the Lead FI to describe how its hiring and retention practices have resulted or will result in administrative staff with capabilities and experience necessary to operate an FI.
3	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	Section 4.5 Fiscal Intermediary Organizational Requirements on page 10 item c) “Maintain an organizational chart with professional and managerial lines of authority and submit such a chart to DOH upon request. Where the FI is also a LHCSA maintain firewalls between the LHCSA and FI lines of business to ensure avoidance of actual or perceived conflicts of interest between the two lines of business.” Please clarify what is meant by this requirement.	<p>The offer should include any information the Lead FI believes will demonstrate the FIs ability to perform the services as outlined in RFO Section 4.0 including how staff have or will have the training, experience and skill sets necessary to properly administer all aspects of the fiscal intermediary responsibilities.</p> <p>The organizational chart should outline all levels of responsibility, including collaborating partners and subcontractors, to show the lines of authority for the FI operation.</p> <p>The organizational chart should also include reference to any firewalls necessary between related organizations. See "Firewall" Questions and Answers, Question 1 for more information.</p>
4	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	What is meant by an “effective organizational structure”? Please provide guidance on the requirement for an organizational chart?	<p>See answers to Questions 2 and 3.</p> <p>Offerors should include in their technical narrative any systems or mechanisms the entity has in place to ensure the avoidance of actual or perceived conflicts of interest between the LHCSA and FI lines of business.</p>
5	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	What is meant by “effective organizational structure” (section 4.5(b), page 10 and section F.3, 3 on page 25), whereby the Contractor will: (b) have and maintain an effective organizational structure with qualified administrative staff to deliver all the services of the Contractor and ensure all FI personnel have the appropriate training and knowledge to fulfill their duties to the FI?	See answers to Questions 2 and 3.

**RFO #20039 QUESTIONS AND ANSWERS**

**FISCAL INTERMEDIARY ORGANIZATIONAL REQUIREMENTS**

Question Number	RFO Reference	Question	Answer
6	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	What training is approved by the Department of Health to satisfy the qualified administrative staff requirement?	See answers to Questions 2 and 3.
7	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	Section 4.5(c) references “professional” lines of authority. Please clarify this reference, as fiscal intermediaries are not required to employ any licensed professionals. This subsection also references firewalls where a LHCSA also operates as an FI. Please harmonize this provision with the reference in section 4.4(g) regarding compliance with wage and labor agreements, including union contracts and collective bargaining agreements. How would a firewall be maintained between a LHCSA and FI operation if such agreements are extended from a LHCSA to an FI? Is the RFO requiring that such agreements be extended from a LHCSA to an FI?	These RFO requirements relate to professional administrative staff of the fiscal intermediary (e.g., CEO, Executive Director, Chief Financial Officer, Counsel, Accounting, Clinical, etc.). It does not relate to or conflict with the rules for personal assistants that care for CDPAP consumers.  See also "Firewall" Questions and Answers for more information.
8	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	On page 10 of the RFO, Section 4.5(c), the Offeror must provide an “organizational chart with professional and managerial lines of authority.” While Offerors can provide an organizational chart, is there specific information that the DOH is looking for on these charts? How many levels of management should be stated on the chart for it to be responsive to the DOH’s inquiry?	See answer to Question 3.
9	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	RFO states that a FI must have “qualified administrative staff.” What qualifications is the DOH expecting to see in order to be satisfied that the FI is being operated by competent managers?	See answers to Questions 2 and 3.
10	Section 6.2: Technical Offer, Subsection F.3 (Pages 24-25 of RFO)	Does the organizational chart that is required to be submitted only required to show “professional and managerial lines of authority, and subcontractors”? or is the chart also supposed to show any qualified administrative staff, or aides, clinicians, who offer services?	See answer to Question 3.
11	Section 6.2: Technical Offer, Subsection F.3 (Pages 24-25 of RFO)	How detailed does an organizational chart have to be? Does it stop at coordinators, or should it go all the way down to receptionists?	See answer to Question 3.
12	Section 6.2: Technical Offer, Subsection F.3 (Pages 24-25 of RFO)	Do we have to have the Advisory Committee on the organizational chart?	To the extent that an FI has implemented this best practice, it is preferred that the organizational chart show the relationship with the Advisory Committee.

**RFO #20039 QUESTIONS AND ANSWERS**

***FISCAL INTERMEDIARY ORGANIZATIONAL REQUIREMENTS***

<b>Question Number</b>	<b>RFO Reference</b>	<b>Question</b>	<b>Answer</b>
13	Section 6.2: Technical Offer, Subsection F.3 (Pages 24-25 of RFO)	Are job descriptions and qualifications expected with the RFO submission?	The technical narrative should include a description of the qualifications of all current FI staff and include a description of the qualifications sought for any open or intended position, to give a full demonstration of the capabilities of the Lead FI to fulfill the services required in the RFO and resulting contract.

**RFO #20039 QUESTIONS AND ANSWERS**  
**PHYSICAL LOCATION**

Question Number	RFO Reference	Question	Answer
1	General	As we have numerous counties listed on our LHCSA license but do not have a physical office in each county would we be required to have a physical office in each of the counties we service?	<p>No. RFO Section 4.5.g states: "The Contractor will: g) Maintain a local presence, commensurate with the Contractor's selected service area, that ensures the Contractor can effectively and timely deliver the services required in Section 4.0;".</p> <p>This requirement does not necessarily mean that an FI will have a physical office in each county of the service area. It is the responsibility of the Offeror to propose how they will satisfy this requirement.</p>
2	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	Sub bullet g) What is the appropriate geographical distance for an FI office from consumer in order to effectively and timely deliver the services required? Is there a maximum allowable distance in either time or mileage?	See answer to Question 1.
3	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	4.5.f- Do we need physical office space in every service area OR is it enough that a coordinator is within an hour of the clients in the area?	See answer to Question 1.
4	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	In Section 4.5 (g), could DOH please clarify what it means by the requirement to "maintain a local presence"? Is it the Department's expectation that in order to "ensure the Contractor can effectively and timely deliver the services required in Section 4.0", a Contractor would need an actual physical location in every county of service?	See answer to Question 1.
5	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	With respect to "local presence", how is local defined? Geographically? Response time? Distance in miles? County? Region?	See answer to Question 1.
6	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	On page 10, 4.5 (g): Maintain a local presence, commensurate with the Contractor's selected service area, that ensures the Contractor can effectively and timely deliver the services required in Section 4.0; How is "local presence" defined. A fixed physical office that consumers can walk into at any time? A contracted individual who can be available upon request? A "virtual office" that consumers can call anytime for assistance but one main physical office in another county (i.e. HQ)?	See answer to Question 1.
7	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	Section 4.5(g) requires maintenance of a local presence. Must that be a physical location?	See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**  
**PHYSICAL LOCATION**

Question Number	RFO Reference	Question	Answer
8	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	Section 4.5(g) requires FIs to “maintain a local presence, commensurate with the Contractor’s selected service area...” The Stakeholder Workgroup identified that while a local presence is important, it should not have a static definition or particular expectations. Can the Department clarify whether they accepted, in whole or in part, the Stakeholder Workgroup’s recommendation and provide loose examples of what it would consider, or not consider, local within a commensurate region or service area? Similarly, if a FI is forced by the Department to accept additional counties, could they be forced to open new offices to meet this requirement, or would one physical location within a service area be sufficient?	See answer to Question 1.
9	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	Is there a definition of ‘local presence’ as used in paragraph 4.5.g of the RFO?	See answer to Question 1.
10	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Would a subcontractor FI office be considered a local presence of a Lead FI?	The Department envisions that the office of a collaborating partner could be considered a local presence of a Lead FI.
11	Section 6.2: Technical Offer, Subsection C and (Page 22 of RFO)	Do we need open an office at the choose services areas?	See answer to Question 1.
12	Section 6.2: Technical Offer, Subsection D (Page 22 of RFO)	Is there a requirement to have a physical office location in each county an organization will provide FI services?	See answer to Question 1.
13	Section 6.2: Technical Offer, Subsection F.3 (Pages 24-25 of RFO)	With respect to local presence, how would that be defined? Would an FI have to have offices in every county it serves? Every zip code? Every 5 miles?	See answer to Question 1.
14	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	Section 4.5(f) requires various certifications for physical locations. Must an FI’s physical location include parking? Must an FI’s physical location include a “family assistance” restroom if the physical location is not used by consumers or personal assistants?	Offerors should propose physical locations that meet the needs of the consumers they are proposing to serve. Thus, a physical location may or may not include parking; provided; however, that where parking is available, it must comply with the 2010 ADA Standards.  Restroom requirements need to comply with the 2010 ADA standards.
15	Section 6.2: Technical Offer, Subsection E (Pages 22-23 of RFO)	Is the office parking lot a mandatory requirement?	See answer to Question 14.

**RFO #20039 QUESTIONS AND ANSWERS**  
**RISK ASSESSMENT**

Question Number	RFO Reference	Question	Answer
1	Section 4.6: Fiscal Monitoring and Oversight Requirements (Pages 10-11 of RFO)	For bullet e, can you define what annual risk assessment is?	Given that Lead FI's are required to adhere to OMIG's compliance process, information on the risk assessment process is found on the OMIG website at <a href="https://omig.ny.gov/media/54376/download">https://omig.ny.gov/media/54376/download</a> , particularly element 6.
2	Section 4.6: Fiscal Monitoring and Oversight Requirements (Pages 10-11 of RFO)	4.6.e- Conduct annual risk assessment of the FIs operations; Can the department please elaborate on the expectations in this section relating to annual risk assessments of the FIs operations?	See answer to Question 1.
3	Section 3.2: Collaborations (Pages 6-7 of RFO)	Will Collaborating Partners be subject to risk assessments and/or audits directly or will their Lead FIs conduct and/or be subject to risk assessments and/or audits on behalf of their Collaborating Partners?	See answer to Question 1.
4	Section 4.6: Fiscal Monitoring and Oversight Requirements (Pages 10-11 of RFO)	Subsection e-Does the annual risk assessment need to be done by a third party?	No.
5	Section 4.6: Fiscal Monitoring and Oversight Requirements (Pages 10-11 of RFO)	Can the State elaborate on the types of annual risk assessments it expects FIs to conduct as part of its operations under (e) of section 4.6 of this RFO? How does the state define risk in this context?	See answer to Question 1.
6	Section 4.6: Fiscal Monitoring and Oversight Requirements (Pages 10-11 of RFO)	4.6(e) What does NYSDOH expect a FI to include in an "annual risk assessment"?	See answer to Question 1.
7	Section 4.6: Fiscal Monitoring and Oversight Requirements (Pages 10-11 of RFO)	Section 4.6(e) requires a FI to conduct annual risk assessments of the FIs operations. Can the Department provide more detail as to their expectations regarding what aspects of the FIs services are subject to an annual risk assessment?	See answer to Question 1.
8	Section 4.6: Fiscal Monitoring and Oversight Requirements (Pages 10-11 of RFO)	4.6.e- While FIs are required to have compliance plans in place and should be conducting routine self audits and identifying and addressing risk areas, specifically conducting annual risk assessments of FI operations is not currently a requirement. In referencing annual risk assessments, does the Department of Health mean something other than corporate compliance plans, or HIPAA and cybersecurity standards?	See answer to Question 1.
9	Section 4.6: Fiscal Monitoring and Oversight Requirements (Pages 10-11 of RFO)	4.6.g- Specifically stated in the RFO, FIs are not responsible for the consumer's plan of care or assuring that the PAs competently and safely perform the required services. FIs are also not responsible for assuming a consumer is eligible for and authorized to receive CDPA services. We would appreciate the Department clarifying in the RFO that FIs compliance programs are not expected to address 521.3(a)(3): medical necessity and quality of care.	A compliance program and risk assessment should address those functions that relate to the services for which the Lead FI is reimbursed by Medicaid.

**RFO #20039 QUESTIONS AND ANSWERS**  
**RISK ASSESSMENT**

Question Number	RFO Reference	Question	Answer
10	Section 4.6: Fiscal Monitoring and Oversight Requirements (Pages 10-11 of RFO)	Section 4.6 Fiscal Monitoring and Oversight Requirements page 10 and 11 e) conduct annual risk assessment of the FIs operations. Will DOH provide the risk assessment tool to be used to meet this oversight requirement?	See answer to Question 1.
11	Section 4.6: Fiscal Monitoring and Oversight Requirements (Pages 10-11 of RFO)	Will the annual risk assessment requirement mentioned in the Fiscal Monitoring and Oversight section be the same as or similar to the VO requirement for LHCSAs?	See answer to Question 1.
12	Section 4.6: Fiscal Monitoring and Oversight Requirements (Pages 10-11 of RFO)	Page 12, Section 4.6.e. – will the State please define what an “annual risk assessment of the FIs operations” would consist of?	See answer to Question 1.
13	Section 6.2: Technical Offer, Subsection F.4.d (Pages 24-25 of RFO)	What exactly is the risk assessment?	See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**  
***FIREWALL***

Question Number	RFO Reference	Question	Answer
1	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	What is the definition of a “firewall”? Maintain adequate firewalls between the LHCSA and FI lines of business to ensure the avoidance of actual or perceived conflicts of interest between the two lines of business.	<p>To the extent that an Offeror operates or functions as both a LHCSA and as a Lead FI, these Offerors should describe in their offer the policies, procedures, organizational structures (e.g., legal entity separation, reporting relationships), information system controls or other protections to ensure the avoidance of actual or perceived conflicts of interest between the LHCSA and FI lines of business.</p> <p>It is the responsibility of the Offeror to demonstrate compliance with this requirement within their offer. DOH is not prescribing a standard or specific set of firewalls that may satisfy this requirement, as the nature and extent of these firewalls will depend on the size and structure of the Offeror.</p>
2	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Will Lead FIs which operate other lines of business (e.g. LHCSAs) require a separate environment/system for CDPAP/FI business or can CDPAP/FI business be integrated into a single environment/system with independent workflows?	See answer to Question 1.
3	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	Section 4.5(c) of the RFO notes that a fiscal intermediary (FI) and a licensed home care services agency (LHCSA) must maintain “adequate firewalls” to ensure the “avoidance of actual or perceived conflicts of interest...” Please define what firewalls must be met. Does this apply to other types of agencies as well, such as community habilitation, managed long term care services, institutional services, and more?	<p>See answer to Question 1.</p> <p>The RFO does not require further descriptions of firewalls between the FI line of business and non-LHCSA lines of business, but to the extent an Offeror feels that a description of any additional firewalls between these operations are relevant to its response, we encourage Offerors to provide such information.</p>
4	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	When a consumer is receiving both CDPA and “traditional” personal care services, would the provision of “adequate firewalls” allow the LHCSA that provides personal care services to also serve as the FI administering the CDPA services?	The Department does not know when the situation described would occur.
5	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	The Stakeholder Workgroup identified a Best Practice as ensuring that “adequate firewalls” include a provision that a PCA working for a LHCSA can not also be a PA working for the FI affiliated with that same company. Can the Department clarify whether this recommendation was accepted and should be incorporated as part of a LHCSA’s firewall?	See answer to Question 1. The purpose of the CDPAP is to provide consumer choice of personal assistants and to the extent the PAs also works for a LHCSA, these appropriate firewalls should be in place.
6	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	Please clarify or define what is meant by “adequate firewalls” where an FI is also a LHCSA.	See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**  
***FIREWALL***

Question Number	RFO Reference	Question	Answer
7	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	What are the Firewalls that DOH is expecting LHCSAs to have in place to operate as an FI?	See answer to Question 1.
8	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	What constitutes an “adequate firewall” between a LHCSA and an FI?	See answer to Question 1.
9	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	As the RFO in 4.5.c the FI is to maintain adequate firewalls between the FI and LHCSA line of business. Will this firewall preclude a PA from also working as a PCA for the same entity?	No. See answer Question 5.
10	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	What is meant by “adequate firewalls” (section 4.5 (c), page 10: Where the FI is also a LHCSA, maintain adequate firewalls between the LHCSA and FI lines of business to ensure the avoidance of actual or perceived conflicts of interest between the two lines of business?	See answer to Question 1.
11	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	4.5(c) What does the NYSDOH consider as an “adequate firewall” when the FI is also a LHCSA?	See answer to Question 1.
12	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	In reference to adequate firewalls between LHCSA and FI lines of business- can you provide example of what may be an appropriate firewall?	See answer to Question 1.
13	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	Can the FI and LHCSA report up to the same senior-level manager?	See answer to Question 1.
14	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	What types of conflicts does the DOH envision might occur if the FI is also a LHCSA that would not occur if the FI were not a LHCSA? Please list the types of conflicts for which the DOH expects adequate controls.	<p>Examples of potential conflicts could include, but are not limited to, the following:</p> <p>Example: An FI directs the consumer toward a better reimbursed service in the LHCSA such as traditional home care services instead of the choice of CDPAP.</p> <p>Example: When a consumer decides to transfer from the LHCSAs traditional home care services to the CDPAP, the LHCSA directs the consumer to their FI instead of providing choice as required by the program.</p> <p>Example: The FI directs the consumer toward hiring PAs that are also employees of the LHCSA instead of allowing full consumer choice as required by the program.</p>

**RFO #20039 QUESTIONS AND ANSWERS**  
***FIREWALL***

Question Number	RFO Reference	Question	Answer
15	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	Page 10, Section 4.5 (c), can the Department provide examples of actual or perceived conflicts of interest between the LHCSA and FI lines of business that pertain to maintaining an adequate firewall?	See answer to Question 14.
16	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	What is meant by “adequate firewalls” (section 4.5(c), page 10 of the RFO): “Where the FI is also a LHCSA, maintain adequate firewalls between the LHCSA and FI lines of business to ensure the avoidance of actual or perceived conflicts of interest between the two lines of business?” Can DOH give examples of conflicts it is concerned about?	See answer to Question 1.
17	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	(Page 10, Section 4.5. Subsection C) “Where the FI is also a Licensed Home Care Services Agency (LHCSA), maintain adequate firewalls between the LHCSA and FI lines of business to ensure the avoidance of actual or perceived conflicts of interest between the two lines of business” – will the State please define what is considered “adequate firewalls”? a. Would the FI be required to maintain/provide disaster and emergency preparedness plans, or would those be inclusive of the firewall?	See answer to Question 1.
18	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	Can a description of firewalls that an Offeror proposes to implement be included in the Offer?	See answer to Question 1.
19	Section 6.2: Technical Offer, Subsection F.3 (Pages 24-25 of RFO)	On Page 25, Section F.3 (5), the RFO talks about there being proper firewalls between the FI and LHCSA lines of business. What types of firewalls does the State deem appropriate here?	See answer to Question 1.
20	Section 6.2: Technical Offer, Subsection F.3 (Pages 24-25 of RFO)	For #5, where the FI is also a Licensed Home Care Agency, describe how the FI will maintain adequate firewalls. How are you defining situations where a FI is also a LHCSA. Do you mean if the FI and the LHCSA have the same Tax ID # or other way that affiliates the entities? For example, if a FI is owned by a company that is a LHCSA, then is the question relevant?	Where the same entity (i.e., same tax ID) operates both a LHCSA and an FI, or where it otherwise meets the definition of a Related Organization under Schedule R of IRS Form 990 ( <a href="https://www.irs.gov/pub/irs-pdf/i990sr.pdf">https://www.irs.gov/pub/irs-pdf/i990sr.pdf</a> ).
21	Section 6.2: Technical Offer, Subsection F.3 (Pages 24-25 of RFO)	What constitutes a firewall between FI and LHCSA?	See answer to Question 1.
22	Section 6.2: Technical Offer, Subsection F.3 (Pages 24-25 of RFO)	What type of firewalls is the DOH expecting to see for FIs that operate under the LHCSA entity?	See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**  
***FIREWALL***

Question Number	RFO Reference	Question	Answer
23	Section 6.2: Technical Offer, Subsection F.3 (Pages 24-25 of RFO)	6.2- F.3 -5: Where the FI is also a Licensed Home Care Services Agency (LHCSA), describe how the FI will maintain adequate firewalls between the LHCSA and FI lines of business to ensure the avoidance of actual or perceived conflicts of interest. If the FI is not also a LHCSA, state that they are not. Are they looking for true electronic firewalls or are they looking for CDPAP line of business to be run as a separate entity? Can PCA line of business refer to CDPAP and vice versa, giving clients the choice to go with another agency if they wish?	See answer to Question 1.
24	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	Regarding Section 4.5 (c), I am a LHCSA agency, can you please clarify this paragraph further?	See answer to Question 1.
25	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	If a LHCSA has also been operating as a FI, and it employees administrative staff that has responsibilities for both programs, confirm that the Lead FI continue this practice. In this scenario there might be a LHCSA coordinator that also acts a liaison with a consumer or a payroll person that process PCA payroll and PA payroll.	See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**  
**EMERGENCY PREPAREDNESS PLAN**

Question Number	RFO Reference	Question	Answer
1	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	What type of information with respect to emergency preparedness is the DOH expecting to see in the RFO?	The offer should demonstrate how the fiscal intermediary will continue operations and continuity of required FI services, as outlined in RFO Section 4.0, to CDPAP consumers in the event of any emergency or disaster. The plan should clearly demonstrate that it ensures continued provision of FI services as required in the RFO and resulting contract.
2	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	What type of information with respect to emergency preparedness is DOH expecting to see in the RFO applications?	See answer to Question 1.
3	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	Do we need evacuation plans for both consumer's residences and FI offices?	See answer to Question 1.  The Department does not require the FI have evacuation plans for consumer residences.
4	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	Bullet h-Is the RFO requesting a disaster preparedness plan and emergency plans and procedures specific to FI services or can this be captured in an agency-wide plan?	An agency wide plan may be appropriate, but the plan should clearly demonstrate that it ensures continued provision of FI services as required in the RFO and resulting contract.
5	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	Section 4.5(h) requires disaster preparedness and emergency plans. Please clarify that those plans would be limited to the FI's operations, and not to the delivery of services by PAs or the responsibilities of consumers.	Yes, it would be limited to the FI's operations. See answer to Question 1.
6	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	What does the Department envision as an adequate disaster and emergency preparedness plan for CDPA? For licensed home care services agencies (LHCSAs), such plans are developed and based on established need and priority. Since the FI does not assess the consumer or have the plan of care, how can the FI establish a level of need or priority plan for purposes of a disaster plan? Or, does a disaster and emergency plan relate only to ensuring that the actual FI services will be met, as such services are defined in the requirements section?	See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**  
***EMERGENCY PREPAREDNESS PLAN***

Question Number	RFO Reference	Question	Answer
7	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	4.5.h- This is not currently a mandate for FIs in New York State, and could require some time for some FIs to put fully into place. a. We would like the Department of Health to clarify that such plans relate solely to the provision of FI services listed in section 4.1 (a)-(j) on page 7 of the RFO. b. Does the Department of Health have any specific expectations or compliance standards in regards to the content and format of the disaster preparedness and emergency plans, or with staff training? c. Since this will be a new requirement, will the state allow a transition period for FIs to achieve compliance, if needed? Will the state provide resources and support to FIs so that they can achieve and maintain compliance?	See answer to Question 1.  Refer to RFO Section 5.4 Payment.
8	Section 6.2: Technical Offer, Subsection F.3 (Pages 24-25 of RFO)	On Page 25, Section F.3 (9), the RFO talks about the Offeror describing the establishment, maintenance and process for the Offeror's disaster preparedness. What type of documentation and information is the State seeking here?	See answer to Question 1.
9	Section 6.2: Technical Offer, Subsection F.3 (Pages 24-25 of RFO)	What type of information with respect to emergency preparedness is the DOH expecting to see in the RFO applications?	See answer to Question 1.
10	Section 6.2: Technical Offer, Subsection F.3 (Pages 24-25 of RFO)	Does disaster preparedness refer to FI corporate staff, etc.? Or, include client responsibilities?	See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**  
**AMERICANS WITH DISABILITIES ACT (ADA)**

Question Number	RFO Reference	Question	Answer
1	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	Does the offeror need to submit a statement of certification that all physical locations satisfy the 2010 Americans with Disabilities Act Standards for Accessible Design and meet all State and municipal building codes? Or does the offeror only required to submit the Attachment F (Program Specific Certifications and Attestations) which reference that physical locations satisfy the 2010 ADA?	The offeror only needs to submit a completed Attachment F with the offer for this requirement. However, the Department reserves the right to verify any information certified within the offer.
2	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	Section 4.5 Fiscal Intermediary Organizational requirements on page 10 f) Certify all physical locations at a minimum satisfy 2010 ADA Standards for Accessible Design... Does this requirement apply to branch offices?	Any compliance obligations under federal law, including the ADA, should be assessed in conjunction with counsel.
3	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	In Section 4.5 ("FI Organizational Requirements") (f), please confirm that the requirement that the FI certify that all physical locations are ADA compliant refers to physical locations operated by the FI, and not the home of the consumer or location where CDPAP services are provided.	This requirement does not apply to a consumer's home.
4	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	On page 10 of RFO #20039 Section 4.5 (f) states the requirement to "Certify all physical location(s), at a minimum, satisfy the 2010 Americans with Disabilities Act Standards for Accessible Design..., and meet all Sate and municipal building codes.".... Is it permissible to have a single site where these requirements are met while operating field offices in the community where all of these requirements are not met?	See answers to Questions 2 and 3.
5	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	Please clarify whether the certification requirements for ADA accessibility and "family assistance" is required (1) for all office locations, including satellite (non-primary) locations; and (2) for all Offerors or just ILCs.	See answers to Questions 2 and 3.
6	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	If an FI has one main office and several recruitment centers (for purposes of PA applications and orientations only), are the recruitment centers also required to be ADA accessible?	See answers to Questions 2 and 3.
7	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	If you have multiple office. Do all offices need to meet the 2010 ADA Compliance Standards?	See answers to Questions 2 and 3.
8	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	If only one office meets the 2010 ADA requirements. Does that meet the requirement in the RFO?	See answers to Questions 2 and 3.

**RFO #20039 QUESTIONS AND ANSWERS**  
**AMERICANS WITH DISABILITIES ACT (ADA)**

Question Number	RFO Reference	Question	Answer
9	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	If current offices do not meet the 2010 ADA requirements. Can an FI rent compliant space for the consumer advisory meetings and be compliant?	See answers to Questions 2 and 3.
10	Section 6.2: Technical Offer, Subsection E (Pages 22-23 of RFO)	For purposes of section 6.2(E), certifying compliance with the Americans with Disabilities Act, what is the definition of “physical locations” which must be certified compliant?	See answers to Questions 2 and 3.
11	Section 6.2: Technical Offer, Subsection E (Pages 22-23 of RFO)	For purposes of section 6.2(E), certifying compliance with the Americans with Disabilities Act Standards, what is the definition of “physical locations” which must be certified compliant? Do these include patient homes? If not, will the state change the wording to reflect that?	See answers to Questions 2 and 3.
12	Section 6.2: Technical Offer, Subsection E (Pages 22-23 of RFO)	For purposes of section 6.2(E) ¶ 3, certifying compliance with the Americans with Disabilities Act Standards, what is the definition of “physical locations” which must be certified compliant? Do these include patient homes? If not, will the state change the wording to reflect that?	See answers to Questions 2 and 3.
13	Section 4.5: Fiscal Intermediary Organizational Requirements (Page 10 of RFO)	Section 4.5(f) of the RFO requires that the Contractor will be required to certify that all physical locations must at a minimum satisfy the 2010 Americans with Disabilities Act Standards for Accessible Design. Does the DOH expect that Contractors undertake renovations to meet this requirement or relocate? Will this requirement only apply to new construction or new locations? Is it acceptable to submit the certification if the locations comply with the “safe harbor” contained in the 2010ADA?	See answers to Questions 2 and 3.
14	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Does the Department have suggestion on how Fiscal Intermediaries can meet their federally mandated requirement to provide a reasonable accommodation under the Americans with Disabilities Act (ADA) in regard to distribution of paychecks?	See answers to Questions 2 and 3.

**RFO #20039 QUESTIONS AND ANSWERS**

***ELECTRONIC VISIT VERIFICATION (EVV)***

Question Number	RFO Reference	Question	Answer
1	General	Who is the state's selected EVV vendor?	The state will be making a decision on how it will implement EVV in the near future. NYS EVV information can be found at <a href="https://www.health.ny.gov/health_care/medicaid/redesign/evv/">https://www.health.ny.gov/health_care/medicaid/redesign/evv/</a>
2	General	Is the EVV vendor selected for CDPAP? If so, who is the vendor and are they statewide or by county. Does the vendor already provide EVV for agency based services in NY?	See answer to Question 1.
3	General	What is the EVV rollout plan for 2021? Is it a set date or soft launch? Has there been beta testing done with the consumer directed EVV system? What is the expected involvement of the FI in EVV training, customer service etc.?	See answer to Question 1.
4	Section 4.4: Fiscal Intermediary Compliance Requirements (Pages 9-10)	The RFO states the FI must comply with EVV requirements the department ""will implement"". This implies that the CDPAP program will be subject to EVV compliance mandate and that FIs will play a role in ensuring compliance, but those requirements are yet to be established by the State and will be established as part of the State's ongoing design of the NY Medicaid Electronic Visit Verification Program. Until those requirements are established, can the state please clarify if and how the FIs and Consumers/PAs are directly responsible for satisfying EVV requirements for the CDPAP program? Are CDPAP PAs expected to electronically collect visit verification information with each visit with the consumer? Who is responsible for collecting and aggregating that data and must it be reported anywhere?	The EVV compliance requirements for CDPAP will follow the New York State implementation timeline. CMS granted New York State's Good Faith Effort (GFE) extension request, postponing implementation of EVV until January 1, 2021. Information regarding the implementation of EVV can be found on the Department's website at: <a href="http://www.health.ny.gov/health_care/medicaid/redesign/evv/">www.health.ny.gov/health_care/medicaid/redesign/evv/</a>
5	Section 4.4: Fiscal Intermediary Compliance Requirements (Pages 9-10)	Section 4.4 Fiscal Intermediary Compliance Requirements on page 10 h) Electronic Visit Verification requirements the Department will implement... What are the EVV requirements for CDPAP services?	See answer to Question 4.
6	Section 4.4: Fiscal Intermediary Compliance Requirements (Pages 9-10)	Does automated time and attendance (EVV), in and of itself, support that a particular shift was worked even though the CDPAP regulations specifically reference timesheets?	See answer to Question 4.
7	Section 4.6: Fiscal Monitoring and Oversight Requirements (Pages 10-11 of RFO)	Do we need software for monitoring PAs?	See answer to Question 4.
8	Section 4.0: Fiscal Intermediary Services (Pages 7-13 of RFO)	Is there an expectation that the time clocking will be based on continually monitored GPS, and in particular to have geofencing to notify of certain behaviors?	See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**  
**CHANGE OF OWNERSHIP**

Question Number	RFO Reference	Question	Answer
1	General	<p>Based on our reading of the RFO and explanatory information, there is no information regarding how DOH will address changes of ownership of FIs. The changes of ownership arise in the following situations: A LHCSA that has also been an FI has contracts with MLTCs to provide both LHCSA and CDPAP services to the MLTC members. The LHCSA has received approval from the PHHPC for a change of ownership, which it must complete within a set time frame or the PHHPC approval for the change of ownership will be withdrawn. With the change of ownership, the legal entity providing both the LHCSA services and the FI services will change to the buyer. The current operator is clearly not going to be able to provide FI services for contract period since it will no longer be a provider of FI services as of the change of ownership date.</p> <p>The change of ownership can occur:</p> <ul style="list-style-type: none"> <li>i. Prior to the February 18, 2020 deadline for current FIs to submit an application;</li> <li>ii. After the submission of the February 2020 deadline but before the anticipated contract award date; or</li> <li>iii. After the contract award date.</li> </ul> <p>For each of the above noted times where a change of ownership can occur, please provide guidance as to: 1. How the current FI entity should proceed with respect to the RFO? 2. How the PHHPC approved buyer entity should proceed with respect to the RFO? The same question arises regarding a change of ownership of an FI that is not affiliated with a LHCSA. If the FI anticipates changing ownership, how should both the current entity and proposed buyer proceed with respect to the RFO?</p>	<p>To apply, entities must meet the Offeror Qualifications as defined in RFO Section 3.0 to submit an offer. Any subsequent changes in the organizational structure will be reviewed by the Department and depend on the nature and structure of the change of ownership transaction.</p>
2	General	<p>If an established FI is chosen for an FI contract, does DOH need to approve a subsequent sale of the FI's stock or a change in its ownership? Similarly, if an established FI is chosen for an FI contract, is that contract assignable pursuant to an asset purchase agreement between the FI and a third party?</p>	<p>See answer to Question 1.</p>
3	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	<p>Please confirm that if an eligible entity that has operated a LHCSA and FI is approved as a Lead FI, it will be permitted to transfer its FI business to a separate entity with the same ownership that will continue to operate as described in the Offer it submitted.</p>	<p>See answer to Question 1.</p>

**RFO #20039 QUESTIONS AND ANSWERS**  
**CHANGE OF OWNERSHIP**

Question Number	RFO Reference	Question	Answer
4	Section 3.1: Eligible Offerors (Page 6 of RFO)	In terms of an entity that is acquiring an established FI applying as an offeror, regardless of whether the FI getting acquired was established before or after January 1, 2012, is the eligibility of the entity acquiring the established FI positively or negatively impacted depending on whether the acquisition will be by the purchase of the established FI's stock vs. the purchase of its assets? Does the timing of that transaction (i.e., before or after the February 18, 2020 deadline for submission of offers) impact the chances of the acquiring entity being chosen for an FI contract?	See answer to Question 1.
5	Section 4.3: Fiscal Intermediary Employment Related Responsibilities and Joint Employment Requirements (Pages 8-9 of RFO)	For an FI whose assets or equity are being transferred during the pendency of this procurement process, confirm that there Lead FI contract award can be transferred to a purchaser that continues the operations of the company it is acquiring. Could the DOH permit a joint Offer to be submitted by the two entities involved in the change of ownership transaction.	See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS  
PRIVACY AND SECURITY**

Question Number	RFO Reference	Question	Answer
1	Section 4.8: Information Technology Requirements and Section 4.9: Privacy, Security and Confidentiality Requirements (Pages 11-13 of RFO)	The state mentions in the second paragraph of 4.9 that the FI cannot divulge any information to third parties without DOH consent first. We would appreciate clarification from the Department of Health on the extent to which FIs must follow this requirement in its operations and day-to-day. For example, can DOH clarify whether information can be shared with our IT/Information Systems/Billing Systems? What if we want to switch vendors? What if we receive a request for information for employment verification from an entity that has a signed release of information? What about court orders or subpoenas for information, or garnishments? Etc.	<p>In order for the Contractor to share confidential information with third parties a Business Associate Agreement (BAA) between the contractor and the third party must be on file and acknowledged by the DOH Security and Privacy Bureau.</p> <p>A BAA with the new vendor will need to be submitted to the Department's Security and Privacy Bureau. Also, all required Security components will need to be met, as outlined in RFO Section 4.9 and at <a href="https://its.ny.gov/eiso/policies/security">https://its.ny.gov/eiso/policies/security</a>.</p>
2	Section 4.9: Privacy, Security and Confidentiality Requirements (Pages 12-13 of RFO)	Per section 4.9, it is noted that the Contractor and subcontractor may be required to execute a number of security and privacy agreements, including but not limited to a Data Use Agreement and/or Business Associates Agreements. Please clarify whether the Department will issue template Data Use Agreements and/or Business Associates Agreements that it deems acceptable, and/or guidance on whether these agreements must be executed at the time the Offeror submits their offer for consideration.	<p>A prepopulated Data Use Agreement (DUA) will be provided to the organization after the contract is awarded and is fully executed. The DUA contains a Business Associate's Agreement (BAA) which is between the Contractor and the Department.</p> <p>A BAA template will not be provided for the Contractor's use with its subcontractors and business partners as this is a legal relationship between the Contractor and its Business Associates. There are requirements which must be met with the BAAs that is contained within the DUA. The DUA and its corresponding BAA do not need to be executed at the time of submission of offer for consideration. The DUA and BAA will be provided after the contract/ offer agreement is fully executed.</p>
3	Section 4.9: Privacy, Security and Confidentiality Requirements (Pages 12-13 of RFO)	Section 4.9 requires that "Medicaid data" not be used for purposes other than the administration of the Medicaid program. Would this prohibition apply to aggregated data stripped of all Personally Identifying Information utilized to demonstrate the effectiveness of a particular FI or subcontractor, or an aspect of the services provided by such organization, for instance to promote potential methods or resources for Value Based Purchasing agreements?	Yes
4	Section 4.9: Privacy, Security and Confidentiality Requirements (Pages 12-13 of RFO)	Presumably the confidentiality provisions relate to patient confidentiality or DOH confidentiality but Section 4.9 is vague on that. Please clarify whose confidentiality is to be protected and not disclosed without DOH consent.	In general, patient confidentiality, though there may be instances where this applies to DOH confidentiality as well.

**RFO #20039 QUESTIONS AND ANSWERS**  
**PRIVACY AND SECURITY**

Question Number	RFO Reference	Question	Answer
5	Section 4.9: Privacy, Security and Confidentiality Requirements (Pages 12-13 of RFO)	What is a Data Use Agreement...is there a template somewhere?	See answer to Question 2.  The purpose of the Data Use Agreement (DUA) is to assure DOH that a Requesting Organization (Requestor) will maintain the security and privacy of Medicaid Confidential Data (MCD) that DOH releases to the Requestor. An additional purpose of the DUA is to establish a legally binding agreement between the Requestor and DOH by defining the terms and conditions of the MCD release, should DOH accept the Requestor's Agreement.
6	Section 4.9: Privacy, Security and Confidentiality Requirements (Pages 12-13 of RFO)	Contacting DOH "immediately" in the event of a breach is not practical. Plus, I assume they mean immediately upon learning of such breach as there could be a breach that is discovered a long while later. So that is a second reason the rule doesn't quite work.	The Contractor must notify the Department, specifically the Security and Privacy Bureau, as soon as a breach is apparent.
7	Section 4.9: Privacy, Security and Confidentiality Requirements (Pages 12-13 of RFO)	Please clarify that the second sentence of the second paragraph would not preclude an FI from sharing information with a third party for the purposes of administration of the CDPAP program.	Having an acknowledged BAA between the Contractor and the third party on file with the DOH Security & Privacy Bureau is the written approval to share Medicaid Confidential Data (MCD) with the Contractor's business associates for purposes of the administration of the CDPAP program.
8	Section 4.9: Privacy, Security and Confidentiality Requirements (Pages 12-13 of RFO)	On page 12 of the RFO, Section 4.9, the RFO states that "the contractor must notify the DOH immediately if any breach of privacy or confidentiality occurs." Who is the contractor supposed to notify specifically? What office of the DOH?	The Contractor must notify the Department, specifically the Security and Privacy Bureau, as soon as a breach is apparent.

**RFO #20039 QUESTIONS AND ANSWERS**  
**DOH CONTRACTING**

Question Number	RFO Reference	Question	Answer
1	Attachments (Pages 29-36 of RFO)	Should an Offeror submit Attachment 5, Forms #4 and #5 as part of the offer? Section 5.5, paragraph 4 of RFO #20039 requests that the Offeror submit Attachment 5, Forms #4 and #5 to the DOH with its offer. However, Sections 6.0-6.3, which specify all of the requirements of the format of the offer and the information to be included in the offer, make no mention of Attachment 5, Forms #4 and #5. Additionally, the list of Attachments on page 28 of the RFO indicates that Attachment 5 has been "Intentionally Omitted", suggesting that no part of Attachment 5 should be included in the offer. Please clarify whether Attachment 5, Forms #4 and #5, or any other or further parts of Attachment 5, should be included in the offer.	Attachment 5 is intentionally omitted from this procurement, as M/WBE subcontracting requirements are not applicable to this procurement.  However, form #4, M/WBE Staffing Plan and #5, EEO Policy Statement, will be required to be completed by awarded offerors. Forms #4 and #5 will be provided to awarded entities to be submitted with their contract materials.
2	Attachments (Pages 29-36 of RFO)	It appears that Attachment 5 ( <a href="https://www.health.ny.gov/funding/forms/attachment_5.pdf">https://www.health.ny.gov/funding/forms/attachment_5.pdf</a> ) should be included with the RFO submission, but we are unclear which of the two PDF's ("Administrative Offer" or "Technical Offer") it should be included in, and in what order. Or can you please identify if Attachment 5 should not be included in the RFO submission?	See answer to Question 1.
3	Attachments (Pages 29-36 of RFO)	Is attachment 5 required to be filled out? It is not on the Offer Document Checklist, yet the RFO states that the offeror should submit Attachment 5 (Form #4) and Attachment 5 (Form# 5).	See answer to Question 1.
4	Section 5.5: Equal Employment Opportunity (EEO) Reporting (Page 15 of RFO)	Is an offeror expected to submit Attachment 5 with the offer? For example if the offeror does not subcontract with NY State certified Women-Owner or Minority-Owned entities, does it have to submit a M/WBE Waiver Request (Form #2)? Or, is the offeror only expected to submit Form# 4 (staffing plan), and Form # 5 (EEO Policy Statement) with the application?	See answer to Question 1.
5	Section 5.5: Equal Employment Opportunity (EEO) Reporting (Page 15 of RFO)	On page 15, under section 5.5 where can we find the described "Equal Employment Opportunity Staffing Plan (Attachment 5, Form #4) identifying the anticipated work force to be utilized on the Contract" and the "Minority and Women-Owned Business Enterprises and Equal Employment Opportunity Policy Statement (Attachment 5, Form # 5)" ? In addition, is this part of the technical or administrative portion and in which order and after which one should they be placed? It also should be noted that the above mentioned plans were not placed under the Offer Content section.	See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**  
**DOH CONTRACTING**

Question Number	RFO Reference	Question	Answer
6	Attachments (Pages 29-36 of RFO)	I'm concerned that the offeror might misunderstand the submission requirements. Are the submission requirements exclusively listed in the Offer Document Checklist, or are there other sections of the RFO that ask for additional documents/information that is not listed on the Offer Document Checklist. As an example, in the previous question, I noted that Attachment 5 is not on the Offer Document Checklist but the RFO suggests on page 15 that the Attachment 5 be submitted.	See answer to Question 1. The Offer Document Checklist is a complete list of all submission requirements.
7	Section 5.5: Equal Employment Opportunity (EEO) Reporting (Page 15 of RFO)	For applicants who are affiliated with or part of a larger entity, should the Equal Employment Opportunity Staffing Plan focus strictly on the staff involved in FI CDPAP? Or should the applicant complete Equal Employment Opportunity Staffing Plan encompassing the demographics of the entire operations.	See answer to Question 1. The form should report project staff, consultants and/or subcontractors working on this contract for the entity submitting the offer.
8	Section 5.5: Equal Employment Opportunity (EEO) Reporting (Page 15 of RFO)	With Respect to RFO section 5.5 Equal Opportunity Reporting, what is meant by the Equal Employment Opportunity Staffing Plan? Is this for PAs, FI administrative staff, or both?	See answer to Question 1. The form should report project staff, consultants and/or subcontractors working on this contract for the entity submitting the offer.
9	Attachments (Pages 29-36 of RFO)	Attachment 4-Please confirm whether DOH wants Offerors to disclose "all relationships with any member, shareholders of 5% or more, parent, subsidiary, or affiliated Contractor", or only those which "would constitute an actual or potential conflict of interest or appearance of impropriety." What does the Department believe constitutes a potential conflict or appearance of impropriety—common ownership with a LHCSA, or any instance where there may be common ownership involving any health care entity/plan?	Attachment 4 states: "As such, the CONTRACTOR will disclose any existing or contemplated relationship with any other person or entity, including relationships with any member, shareholders of 5% or more, parent, subsidiary, or affiliated Contractor, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers of the Respondent or former officers and employees of the Contractor or their Affiliates, in connection with your rendering services enumerated in this Contract. If a conflict does or might exist, please describe how you would eliminate or prevent it. Indicate what procedures will be followed to detect, notify the Agencies of, and resolve any such conflicts. "
10	Attachments (Pages 29-36 of RFO)	Attachment 7-What information is required for the bidder's certified statements?	Offerors need to provide all information requested in Attachment 7 and have it signed by an authorized representative.
11	Attachments (Pages 29-36 of RFO)	In accordance with Section 2 of the Standard Clauses for New York State Contracts, the contract may not be assigned without prior written consent. Please provide information regarding the process that has been established to request/obtain consent for an assignment of the contract. Please also identify the amount of time DOH estimates it will take for this process to be completed, particularly in light of the change of ownership questions referenced above.	There are several considerations involved in making a determination for assigning a contract. See the Guide to Financial Operations at the following website for more information:  <a href="https://www.osc.state.ny.us/agencies/guide/MyWebHelp/#XI/12/B.htm?Highlight=assignments">https://www.osc.state.ny.us/agencies/guide/MyWebHelp/#XI/12/B.htm?Highlight=assignments</a>

**RFO #20039 QUESTIONS AND ANSWERS**  
**DOH CONTRACTING**

Question Number	RFO Reference	Question	Answer
12	Attachments (Pages 29-36 of RFO)	Attachment 8, Face Page of NY State Contract. This face page asks for the NYS vendor identification #. Where can the offeror get this # from? The face page asks for the BID Opening Date. When is the BID Opening date? The face page asks for the contract term and the funding amount for contract term. Is the contract term 5 years? What is the funding amount?	Attachment 8 is the standard DOH contract and is provided for the offeror's reference.  Attachment 8 is not required as part of the offer submission. It will only need to be completed for those offerors awarded under this RFO and it will be provided by the Department at the time of contracting.
13	Attachments (Pages 29-36 of RFO)	Does attached 8 and the other attachments have to be filled out by an attorney? And if so does it have to be a NYS attorney or Attorney in any state? Or just corporate officer at our agency?	See answer to Question 12.  Refer to Attachment A, Offer Document Checklist, for a list of the items to be included in the offer submission.
14	Attachments (Pages 29-36 of RFO)	Attachment 8, Appendix X, Contract Amendment Form What is the contract #? Can you confirm that it is the same as the RFO # (i.e. 20039?)	See answer to Question 12.  A contract number would be assigned at time of contracting.
15	Attachments (Pages 29-36 of RFO)	Attachment 7-What is the bidder's NYS vendor ID #?	See answer to Question 12.
16	Attachments (Pages 29-36 of RFO)	What is the Unit ID, and voucher that is mentioned under the Attachment 8- DOH agreement on page 15?	See answer to Question 12.
17	Attachments (Pages 29-36 of RFO)	Attachment 8, Appendix X, Contract Amendment Form page 11/51 Does the bidder have to fill out the "contract value and period," how do they get this information?	See answer to Question 12.
18	Attachments (Pages 29-36 of RFO)	Attachment 8, Appendix X, page 33/51 Does the offeror need to complete the "Contact at State of New York Department of Health"? If so, who is the contact?	See answer to Question 12.
19	Section 2.1: Other Important NYS Contracting Information For Offerors (Page 5 of RFO)	The RFO section 2.2 (Other Important NYS Contracting Information for Offerors) says that the offeror is required to "review and is requested to have legal counsel review, RFO Attachment 8: DOH Agreement, "standard Clauses for New York State Contracts". RFO Attachment 8 consists of 51 pages and includes (Appendix A, Appendix X, Appendix M, Appendix F, and Appendix H) Does RFO Attachment 8 with appendices A, X, M, F, and H also need to be submitted with the offer? Or alternatively, is this only submitted once an offer is accepted by the State?	See answer to Question 12.

**RFO #20039 QUESTIONS AND ANSWERS**  
**DOH CONTRACTING**

Question Number	RFO Reference	Question	Answer
20	General	Is the associated contract with the state, county or MCO? If MCO, can the FI contract with multiple entities?	<p>The contract awards resulting from this RFO will be between New York State and the selected Lead FIs.</p> <p>Per RFO Section 2.0: "Entitles chosen to contract with the Department may also enter into administrative service agreements/contracts with MCOs to serve CDPAP members enrolled in managed care plans. Entities under contract with the Department for FI services will not be required to enter into additional contracts directly with LDSS to serve CDPAP fee-for-service members located in counties in their authorized service area."</p>
21	General	Can an FI terminate a contract with DOH for any reason?	<p>A contracted fiscal intermediary may not terminate its contract without mutual written agreement from both the contractor and the Department.</p> <p>If a contracted FI has concerns about meeting the contract requirements, they are encouraged work constructively with the Department. The Department will require any contracted FI whose services will end to proceed in accordance with statutory, regulatory and Department guidelines for transition of consumers to another contracted FI.</p>
22	Section 2.3: Term of the Agreement and Termination Provisions (Page 6 of RFO)	Page 6, Section 2.3, will the Department provide conditions for termination by the Contractor?	No. See answer to Question 21.
23	General	Will HRA still be referring case or will the cases be through NYSDOH?	HRA and other LDSS will offer consumers choices of fiscal intermediary from the list of contracted fiscal intermediaries posted by the Department that are contracted with as a result of this RFO.
24	General	Must the Lead FI show Financial Capability via proof of funds to proceed?	All offerors will be assessed for Vendor Responsibility using the completed Vendor Responsibility Questionnaire referenced on page 20 of the RFO. The Vendor Responsibility review includes an evaluation of financial, legal, integrity and performance history of the offeror.
25	Section 1.0: Calendar of Events (Page 4 of RFO)	Can you tell me the term of the contract?	See Section 2.3 of the RFO. The contract term is expected to be for a period of five (5) years, commencing on the date the contract is approved by the NYS Office of the State Comptroller.
26	Section 2.3: Term of the Agreement and Termination Provisions (Page 6 of RFO)	Will FI's have to re-apply or complete a new RFO after the initial 5-year contract period?	The contract term under this RFO is expected to be for a period of five (5) years. Any renewals will be subject to applicable state procurement rules.

**RFO #20039 QUESTIONS AND ANSWERS**  
**DOH CONTRACTING**

Question Number	RFO Reference	Question	Answer
27	Section 2.3: Term of the Agreement and Termination Provisions (Page 6 of RFO)	Section 2.3 on p.6 of the RFO discussed the Department's right to limit, suspend or terminate FIs (so presumably both lead and subcontractor FIs) with 30 days' notice to the Contractor (i.e. lead FI). Is 30 days notice sufficient for fulfillment of any FIs obligations vis-à-vis consumer rights such as notice requirements when an FI ceases operation?	Thirty days is the minimum amount of time in which DOH is required to give notice; provided, however, DOH may specify a longer termination than this minimum time period to ensure consumers are protected and legal requirements or obligations are satisfied by both the Department and the contracted FI as applicable.
28	Section 2.3: Term of the Agreement and Termination Provisions (Page 6 of RFO)	What happens if a lead FI must cease operation during the contract period? Changes are expected to occur in the ability of FIs to continue operations because of uncertainty regarding the administrative rate FIs will be reimbursed and how sustainable it will be for some FIs.	See answers to Questions 21 and 27.
29	Section 2.3: Term of the Agreement and Termination Provisions (Page 6 of RFO)	Concerning "successful contractor performance" (Section 2.3, second sentence): how often will this be evaluated, by whom will it be evaluated, and what methods will be used?	Successful performance requires adherence to the terms of the state contract by the Lead FI and ensuring subcontractor compliance with the terms of their agreements. Contractors will be monitored by the Department or its designee for compliance with the required scope of work as outlined in RFO Section 4.0: Fiscal Intermediary Services.
30	Section 2.3: Term of the Agreement and Termination Provisions (Page 6 of RFO)	About the language regarding termination (Section 2.3, second paragraph): A) Is there a process to appeal FI termination? B) Will an FI receive an opportunity to bring affairs into compliance before being subject to termination? C) In regard to the 30 days written notice, a contracting FI would need to convey this to a collaborating FI for the benefits of consumers; however, this timeline does or will likely interfere with the legal obligations of FIs to consumers, such as timely notice and notice of consumer rights, when it ceases operations. Please further clarify the process for suspending or terminating operations of an FI.	A) Yes, final determinations to terminate a contract between the Department and a FI contractor are subject to review provided under article 78 of the civil practice law and rules.  B) The Department, it is sole discretion, may allow for an opportunity to cure prior to any final determination to terminate a contract. If the Department allows for an opportunity to cure, the Department will establish a reasonable time in which to cure, but not to exceed 30 days.  C) Various termination and suspension requirements can be found in section 365-f of the social services law. In addition, further provisions about contract termination can be found in section III of the New York State Department of Health Contract (Attachment 8), and transition requirements are found in section 4.10 of the RFO. Other provisions of the RFO and attachments thereto may apply at various points during any suspension or termination of operations as well. In the event of a contract suspension or termination, all applicable notice requirement must be met.
31	Section 5.7: Subcontracting (Pages 15-16 of RFO)	According to section 5.7 Contractor can submit a request to the Department to remove subcontractors and the Department can remove subcontractors at any time during the contract. Can a subcontractor appeal to the removal?	No. A subcontractor is not a party or third-party beneficiary to the contract between the Department and the Fiscal Intermediary contractor, and no contract exists between the Department and the subcontractor whether implied or otherwise.

**RFO #20039 QUESTIONS AND ANSWERS**  
**DOH CONTRACTING**

Question Number	RFO Reference	Question	Answer
32	Section 8.5: Award Recommendation (Pages 27-28 or RFO)	Is there an appeal process should a Fiscal Intermediary receive a notice of non-award?	Per RFO Section 5.13: "In the event unsuccessful Offerors wish to protest the award resulting from this RFO, Offeror should follow the protest procedures established by the Office of the State Comptroller (OSC). These procedures can be found in Chapter XI Section 17 of the Guide to Financial Operations (GFO), available on-line at:  <a href="http://www.osc.state.ny.us/agencies/guide/MyWebHelp/Content/XI/17.htm">http://www.osc.state.ny.us/agencies/guide/MyWebHelp/Content/XI/17.htm</a>
33	Section 4.10: Transition Requirements (Page 13 of RFO)	On page 13 of the RFO, under section 4.10, the RFO states that "the contractor is required to develop a work plan and timeline to securely and smoothly transfer any data and records generated..." Could you clarify when this type of a transition might happen? It is my understanding that this type of a transition would only occur once the 5-year contract with the State is terminated and not renewed. I would appreciate you confirming that and/or explaining when this type of data may have to be transferred to another entity.	RFO Section 4.10 Transition Requirements states: "The transition represents a period when the current contract activities performed by the Contractor must be turned over to the Department, another Department agent or successor Contractor <u>during or at the end of the contract.</u> "  These transition requirements would be in effect for almost any transition of contracted fiscal intermediary services. An exception to this would be in instances where the Department has determined the public health or safety would be imminently endangered by the continued operation or action of the contracted fiscal intermediary.
34	Section 4.10: Transition Requirements (Page 13 of RFO)	According to section 4.10 the Contractor must submit a plan to the Department no later than four months before the last day of its contract; however, in section 2.0 the department only has to provide 45 calendar days notice to the FI to cease operations. In the case where a Contractor has less than four months notice when does the Department expect the plan and documentation to be submitted?	If a Contractor is provided a period of less than 4 months for transition, the Department will inform the contracted FI the deadline for which they must submit a transition plan back to the Department.
35	Section 4.10: Transition Requirements (Page 13 of RFO)	Section 4.10, Transition Requirements, contemplates a current Contractor turning over its contract activities to a successor Contractor. We seek further information regarding the following: a. The process by which a successor Contractor will be evaluated and selected; and, b. The time frame granted to enable a successor Contractor to meet expanded fiscal intermediary requirements.	Section 4.10 applies to any Lead FI that has been awarded a contract under this RFO only. See answers to Questions 29, 33 and 34.

**RFO #20039 QUESTIONS AND ANSWERS**  
**DOH CONTRACTING**

Question Number	RFO Reference	Question	Answer
36	Section 5.10: Lobbying (Page 17-18 of RFO)	Under the applicable lobbying laws, are consumers employed at a Fiscal Intermediary permitted to engage in conversations, questioning, events and other behaviors related to the RFO that may or may not include interacting with a range of Department staff as a concerned consumer? If consumers who also work at a Fiscal Intermediary contact the Department through any other means with comments about the RFO, will this disqualify their employer from submission or acceptance of a contract?	The Department advises anyone with questions or concerns regarding this RFO contact the Designated Contact:  Elizabeth Wood Bureau of Contracts, NYSDOH Corning Tower, Room 2827 Albany, NY 12237 Phone: (518) 474-7896 Email: elizabeth.wood@health.ny.gov
37	Section 5.10: Lobbying (Page 17-18 of RFO)	Under the applicable lobbying laws, are Fiscal Intermediaries permitted to advocate on behalf of consumers regarding this RFO after the question submission deadline without risk to contracting status?	See answer to Question 36.
38	Section 5.10: Lobbying (Page 17-18 of RFO)	If a consumer does not work at an FI and chooses to engage the Department through any other means with comments about the RFO, will their FI be penalized for independent actions regarding this RFO?	See answer to Question 36.
39	Section 5.16: Encouraging Use of New York Businesses in Contract Performance (Page 19 of RFO)	Section 5.16-Encouraging Use of NY Businesses in Contract Performance: what type of vendors should be considered and how many?	The RFO does not mandate that FIs engage subcontractors for any or all portions of the required services of an FI.  Consistent with other New York State procurement opportunities, this RFO encourages FIs to use New York State business to fulfill aspects of the contract that they intend to subcontract (see RFO Section 5.7 Subcontractors for more information).  If the offeror intends to utilize the services of New York State businesses in the delivery of service, it should record the name of such entity(ies) in Attachment 6. There is no minimum required number of such businesses.
40	Section 5.18: Intellectual Property (Page 19 of RFO)	How does the State define intellectual property?	The RFO does not specifically define the meaning of intellectual property for purposes of this opportunity, but respondents may interpret this language as using the commonly understood industry term.
41	Section 5.18: Intellectual Property (Page 19 of RFO)	Any work product created pursuant to this agreement and any subcontract shall become the sole and exclusive property of the New York State Department of Health, which shall have all rights of ownership and authorship in such work product. What is the state considering intellectual property? What would it entail?	See answer to Question 40.

**RFO #20039 QUESTIONS AND ANSWERS**  
**DOH CONTRACTING**

Question Number	RFO Reference	Question	Answer
42	Section 5.18: Intellectual Property (Page 19 of RFO)	In section 5.18, what intellectual property would the Department seek to maintain ownership of? Does the Department claim ownership of policies and procedures of the FI? Best practice resources? Payroll software developed by the FI? Electronic Visit Verification technology developed by the FI? If a FI develops an app that allows consumers to identify and contact potential PAs, would the Department claim ownership of this? Since the clause applies to subcontracts, would this mean that such policies, software, apps, and other intellectual providers developed by EVV vendors, software vendors, and others would be subject to the provisions? Similarly, if a FI works to produce a report highlighting the successes of a particular approach or method they have employed, would the Department own the authorship rights to the report?	See answer to Question 40.
43	Section 5.18: Intellectual Property (Page 19 of RFO)	With respect to the Department's treatment of Intellectual Property under RFO Section 5.18, is treatment in effect upon the Department's receipt of the RFO documents or once a contract is awarded? What assurances are there that the Department will not share RFO documents or content between FI Offerors?	See answer to Question 40.  See Section 5.9 of the RFO, which describes how offerors should identify and label proprietary information contained in their offer.
44	Section 5.18: Intellectual Property (Page 19 of RFO)	Section 5.8(15) requires every offer to be firm and not revocable for 365 days beyond bid opening. If an offeror is not selected, and contracts are awarded on or about July 1, 2020, and non-selected offerors are required to stop providing FI services within four months of notification of non-selection, non-selected offerors will not be in a position to provide FI services after November 1, 2020, if not sooner. The 365-day requirement, therefore, cannot, by the terms of the RFO itself, be met. Please clarify that once a non-selected offeror has been advised that it must begin transition, it shall not be bound by the offer.	Once an offeror has been advised that it was not selected under the RFO and must begin transition, it will not be bound by Section 5.18(15) which requires their offer to be non-revocable for 365 days.
45	Section 5.5: Equal Employment Opportunity (EEO) Reporting (Page 15 of RFO)	Is this RFP going to have the MWBE solicitation to have 30% of the contract agreement to go to minority-women owned businesses?	No, the Department did not establish a 30% M/WBE participation goal on this RFO.
46	Section 5.5: Equal Employment Opportunity (EEO) Reporting (Page 15 of RFO)	What does "beneficial use of the Contractor" in Section 5.5 Paragraph 3 mean?	The exception applies to work with respect to real property that does not specifically pertain to the services being provided by the Fiscal Intermediary, but is rather for the Fiscal Intermediary's general "beneficial use.

**RFO #20039 QUESTIONS AND ANSWERS**  
**DOH CONTRACTING**

Question Number	RFO Reference	Question	Answer
47	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Section 5.7 states, "Offerors may propose the use of subcontractors consistent with this section. The Department reserves the right to review and approve all subcontractor agreements. Awards may be made conditional on the review and approval of subcontractors or subcontract agreements." Must subcontract agreements be in place at the time an offer is submitted to DOH? If not, when must they be in place? Also, the fourth full paragraph on p. 16 of the RFO lists a number of bulleted items that subcontractors may not directly perform. They can't perform those items in their capacity as subcontractors. However, can a subcontractor under one contract be a Lead FI under another contract - - in which case it would have to perform those functions (the same question exists with regard to mirror prohibitions set forth in the last bullet of Section 6.2.E)?	No, subcontract agreements do not need to be in place at time of offer. Subcontract agreements must, however, be in place in time for an awarded Contractor to fulfill its contractual obligations to the State. The Department reserves the right to review and approve new subcontractors or subcontract agreements.  A Lead FI may also be a subcontractor under another contract and act as collaborator to another Lead FI, but it can only perform Lead FI services for clients served under its own contract.
48	Section 5.7: Subcontracting (Pages 15-16 of RFO)	What rights does a Lead FI have to end a subcontract relationship when noncompliant behavior is detected? Is there a required notification time period established?	No. The Lead FI is expected to enter into its own contract with subcontractors, including rights of termination. The Department would not be party to this contract. The Department reserves the right to review and approve new subcontractors or subcontract agreements.
49	Section 5.7: Subcontracting (Pages 15-16 of RFO)	The RFO states the Department may add, change or remove subcontractors. Does a Lead FI have any rights as to whom they may or may not wish to subcontract with?	Yes. The Lead FI proposes the subcontractors, however the Department reserves the right to review and approve subcontractors or subcontract agreements.
50	Section 6.1: Administrative Offer, Subsection B (Page 20 of RFO)	Does the term "Governmental Audit" in the responsibility questionnaire include routine DOH, OMIG and DOL audits?	Yes. The term includes any audit performed by any State, Federal or local government body.
51	Section 7.1: No Bid Form (Page 26 of RFO)	Is an offeror who submits an offer/bid exempt from attaching Attachment 2 (No-Bid Form?). In other words, do I have to attach the No-Bid Form with my offer application?	The No-Bid Attachment is only applicable if the organization is not submitting an offer. Submission is voluntary but encouraged.
52	Section 7.1: No Bid Form (Page 26 of RFO)	What if someone who is not offering to do the RFO does not submit the no bid attachment? (Section 7.1).	The No-Bid Attachment is not required. It is a request of the Department if an offeror knows they will not be submitting an offer.
53	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Will subcontractor need to have a requirement for insurance? What insurance coverage is expected for Leading FI's?	Please see Attachment 8, New York state Department of Health Contract, Section IV. Contract Insurance Requirements.  <a href="https://www.health.ny.gov/funding/forms/attachment_8.pdf">https://www.health.ny.gov/funding/forms/attachment_8.pdf</a>

**RFO #20039 QUESTIONS AND ANSWERS**  
**MEDICAID PROVIDER ENROLLMENT**

Question Number	RFO Reference	Question	Answer
1	General	We would like clarification on the requirements for MCOs contracting with CDPAS/CDPAP-FIs. We understand that CDPAP-FI is no longer considered a Medicaid enrollable provider type. However, do the FIs still need FI Authorization or any other kind of certification or approval from DOH?	To be a fiscal intermediary in New York State, an entity must submit an offer under this RFO, be awarded and contract with the State. In addition, per Section 4.4 of the RFO, the FI would also be required to be enrolled as a CDPAP-FI Medicaid Provider.
2	General	Can you tell us exactly when the requirement for enrollment in Medicaid was lifted for the FIs?	CDPAP-FI was closed as an enrollable provider type on the eMedNY.org website in August 2019. This provider type will be reopened for the Contractors under this RFO.
3	General	Do we need to have an NPI number?	DOH has not yet defined the provider enrollment process for FI contractors. In the past, NPI numbers were not required for the CDPAP-FI provider type.
4	General	How does a company enroll as a Medicaid provider CDPAP-FI?	Once selected and enrollment is made available, the CDPAP-FI would visit the Provider Enrollment page at <a href="http://www.eMedNY.org">www.eMedNY.org</a> and navigate to CDPAP-FI (FISCAL INTERMEDIARY) to complete the necessary enrollment forms.
5	General	If a contracting CDPAP-FI is enrolled as a Medicaid provider as a Licensed Home Care Services Agency (LHCSA), will that Medicaid Provider ID number suffice? If not, since LDSS authorizations include a FI's MMIS number, what steps will be taken to ensure that new authorizations to match the new MMIS numbers in a prompt and time efficient manner, without further disruption in reimbursement, or will a legal grace period be created that allows for cross-referencing of the MMIS numbers?	No. An entity awarded under this RFO to provide fiscal intermediary services would have to enroll as a CDPAP-FI provider. See answer to Question 4.
6	General	Currently, eMedNY is not accepting new enrollments for Fiscal Intermediaries. Will a selected FI have the ability to file for a new CDPAP-FI Medicaid provider ID number once they are chosen, given that it takes at least 90 days?	Yes, selected Lead FIs will have the ability to enroll once they contract with New York State.
7	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	If a Lead FI has an existing Medicaid Number {0264} do they need to apply for a new one?	An entity awarded under this RFO to provide fiscal intermediary services would have to enroll as a CDPAP-FI provider. See answer to Question 4.
8	Section 3.2: Collaborations (Pages 6-7 of RFO)	Also do the Collaborators need a new Medicaid Number if they already have an existing Medicaid Number {0264}?	Collaborators do not need to enroll. A Medicaid Provider enrollment is not necessary for collaborating activities in their capacity as collaborating entities/subcontractors.

**RFO #20039 QUESTIONS AND ANSWERS**  
**MEDICAID PROVIDER ENROLLMENT**

Question Number	RFO Reference	Question	Answer
9	Section 4.4: Fiscal Intermediary Compliance Requirements (Pages 9-10)	Bullet A: What was DOH's rationale in mandating the FI enroll as a Medicaid Provider versus classifying them as a contractor?	<p>Fiscal intermediaries serving CDPAP consumers in fee-for-service Medicaid will directly bill the State, i.e., EMedNY, for FI administrative costs and will be reimbursed in accordance with the policies in effect on the date the services are rendered.</p> <p>To bill EMedNY, an FI must be an enrolled Medicaid provider.</p>
10	Section 4.4: Fiscal Intermediary Compliance Requirements (Pages 9-10)	Bullet A: Is there a current list of provider enrollment activities for Medicaid provider status that can be provided?	Instructions on how to enroll as a CDPAP-FI, including necessary forms and requirements, will be posted on <a href="http://www.eMedNY.org">www.eMedNY.org</a> at a future date.
11	Section 4.4: Fiscal Intermediary Compliance Requirements (Pages 9-10)	In accordance with Section 4.4, entities awarded a contract will be required to enroll in the Medicaid program. We recognize that E-MedNY is responsible for the actual Medicaid enrollment processes, however, there is also currently no mechanism in place to transfer Medicaid provider numbers from one FI to another if there is a change of ownership. The concern for both existing FIs and buyers is that if a buyer would like to acquire an existing FI, it has no effective mechanism to enroll in Medicaid in a manner that would timely allow for it to continue to provide services to CDPAP recipients without an interruption in services. Please describe the process for both FIs that are affiliated with LCHSAs and those that are not, regarding how the existing FI will be able to transfer the existing Medicaid provider number to a buyer to permit the buyer to begin providing FI services immediately upon a change of ownership.	<p>Instructions on how to enroll as a CDPAP-FI, including necessary forms and requirements, will be posted on <a href="http://www.eMedNY.org">www.eMedNY.org</a> at a future date.</p> <p>Fiscal intermediaries awarded under this RFO will have to enroll as a CDPAP-FI provider, which will be a separate and discrete provider ID from a LHCSA under the same ownership. The separate provider ID also applies in change of ownership situations. The Department will provide sufficient time from award to implementation for CDPAP-FI providers to enroll, including processing changes of ownership.</p>
12	Section 4.4: Fiscal Intermediary Compliance Requirements (Pages 9-10)	If we have enrolled with Medicaid but we have not submitted cost reports or been given rates, is that enough to satisfy the requirement to enroll with Medicaid under RFO section 4.4 (a)?	Yes. For those entities not enrolled, the requirement to enroll will be satisfied upon award as an FI, subsequent enrollment submission, and review/approval by the Department. Rate assignment and cost reports happen at a later date.
13	Section 4.4: Fiscal Intermediary Compliance Requirements (Pages 9-10)	If we have enrolled with Medicaid but we have not submitted cost reports or been given rates, is that enough to satisfy the requirement to enroll with Medicaid 4.4 a)?	See answer to Question 12.

**RFO #20039 QUESTIONS AND ANSWERS**  
**MEDICAID PROVIDER ENROLLMENT**

Question Number	RFO Reference	Question	Answer
14	Section 4.4: Fiscal Intermediary Compliance Requirements (Pages 9-10)	4.4(a) When the 2017-FI application process was placed on hold in 2018, the applications from a FI to obtain a specific Medicaid Provider Number for the FI was also put on hold. Will the Medicaid Provider number applications be processed now or does a responding FI have to re-submit for obtainment of the Medicaid Provider number?	DOH has not yet defined the provider enrollment process for FI contractors. All submitted applications for the CDPAP-FI provider type have been retained, and instructions will be provided to selected Offerors.
15	Section 4.4: Fiscal Intermediary Compliance Requirements (Pages 9-10)	Contractors will be required to enroll as a CDPAP-FI enrolled Medicaid provider. An Offeror that is not a CDPAP-FI enrolled Medicaid provider must successfully enroll before any contract awarded under this procurement will become effective. Any award under the terms of this RFO will be conditioned on such enrollment; eMedNY is not currently processing CDPAP-FI enrollments. Please confirm that these applications will begin to be processed prior to the contract award period as these enrolments can take up to 90 days.	All Lead FIs must be awarded a contract prior to submission of a Medicaid Enrollment for review of and decision by the Department.
16	Section 4.4: Fiscal Intermediary Compliance Requirements (Pages 9-10)	Will the application of an offeror that has enrolled as a CDPAP FI but has not yet received a CDPAP-FI Medicaid ID # be given the same consideration as offerors with said Medicaid ID?	Yes. See RFO Section 4.4 (a).
17	Section 4.4: Fiscal Intermediary Compliance Requirements (Pages 9-10)	Section 4.4 Fiscal Intermediary Compliance Requirements on page 9 a) Contractors will be required to enroll as a CDPAP-FI enrolled Medicaid provider. Will FIs be required to have a separate Medicaid number for CDPAP services or will they still bill under the PCA Medicaid Provider number? If a CDPAP MMIS Provider is required should a current FI wait until July 2020 when the FI contracts are awarded?	No. An entity awarded under this RFO to provide fiscal intermediary services would have to enroll as a CDPAP-FI provider. See answer to Question 4.
18	Section 4.4: Fiscal Intermediary Compliance Requirements (Pages 9-10)	We are a LHCSA that has always utilized our personal care aide (PCA) Medicaid number for our FI business. As a result of this RFO and the stipulation in paragraph 4.4.a that contractors (FI's) be "required to enroll as a CDPAP-FI enrolled Medicaid provider", and the fact that currently eMedNY is not issuing new Medicaid provider numbers, will eMedNY be directed to issue new Medicaid Provider numbers to FIs in time to ensure bidders like us who are awarded a contract will be able to comply with this requirement?	No. An entity awarded under this RFO to provide fiscal intermediary services would have to enroll as a CDPAP-FI provider. See answer to Question 4.
19	Section 6.2: Technical Offer, Subsection D (Page 22 of RFO)	Does an organization need to have licensure in all counties they are proposing to provide FI services?	Other than contracting with New York State pursuant to the RFO, there is no licensure of fiscal intermediaries.

**RFO #20039 QUESTIONS AND ANSWERS**  
**FISCAL INTERMEDIARY TRANSITION**

Question Number	RFO Reference	Question	Answer
1	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	If a current FI is not awarded as a Lead FI under this RFO, will the entity be able to continue to provide Consumer Directed services as an FI with MCOs/MLTCs. a. Is a current FI permitted to submit an RFO as a lead FI and also as a subcontractor for a separate entity?	<p>After award and contracting, only those entities contracted with the State will be fiscal intermediaries for all CDPAP consumers.</p> <p>RFO Section 2.0 states: "Current FIs that fail to submit a response to this RFO within 60 days of its posting or that are not selected under this RFO to provide FI services will be required to cease operations in accordance with the Department's transition policies and procedures to be released by the Department."</p> <p>Transition guidelines will be released by the Department in connection with award notification, in order to ensure a smooth and safe transition of FI services, to the extent necessary, for CDPAP consumers.</p> <p>When developed, transition guidelines will be posted on the CDPAP website at: <a href="http://www.health.ny.gov/health_care/medicaid/redesign/mrt90/cdpas.htm">www.health.ny.gov/health_care/medicaid/redesign/mrt90/cdpas.htm</a></p>
2	Section 1.0: Calendar of Events (Page 4 of RFO)	How long do you feel the RFO applicant approval and transition of this will take?	See answer to Question 1.
3	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	How will the transition be managed? Is the lead FI responsible to work with individual FIs no longer providing services or is the state going to serve as the main point of contact for communications between the awarded FI and exiting vendors? Who will oversee quality assurance of the data provided by the previous vendors?	See answer to Question 1.
4	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Will the Department alone determine where FI enrollees are transitioned if their current FI does not receive an Offer, or will MLTCPs assist in the process?	See answer to Question 1.
5	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Paragraph 4: What is DOH's expected transition timeline to consolidate from the current number of FIs to the newly selected count?	See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**  
***FISCAL INTERMEDIARY TRANSITION***

Question Number	RFO Reference	Question	Answer
6	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	How much time will an FI that is not selected have to stop providing services?	See answer to Question 1.
7	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	If an FI does not receive an offer, when must the FI stop servicing its members?	See answer to Question 1.
8	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Upon award, are consumers are transferred to a Lead FI, will the personnel files transfer with them (excluding I-9, etc.)	See answer to Question 1.
9	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Upon award, when consumers are transferred to a Lead FI, will the current authorization transfer to the Lead FI without the need for new authorizations?	See answer to Question 1.
10	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Can a current FI who is not selected as a lead entity receive compensation in any form for their existing caseload from a lead entity? If the answer is no, how will this be enforced to ensure compliance?	A current FI cannot receive any form of compensation for an existing caseload. The enforcement of these requirements is not relevant to the submission of an offer under this RFO.
11	Section 3.2: Collaborations (Pages 6-7 of RFO)	If we are a Collaborating Partner, what happens to our current Consumers? Do we transition them to the lead FI? Do we only manage changes to their PA's as needed?	See answer to Question 1.
12	Section 5.7: Subcontracting (Pages 15-16 of RFO)	If a subcontractor FI does not identify itself as a subcontractor FI on this application, and it doesn't submit a Lead FI application, then the FI entity cannot continue to provide FI services after February 18, 2020. Is that correct?	See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**  
**FISCAL INTERMEDIARY TRANSITION**

Question Number	RFO Reference	Question	Answer
13	Section 3.2: Collaborations (Pages 6-7 of RFO)	If we are a collaborating partner, what happens to our current Consumers? Do we transition them to the lead FI? Do we only manage changes to their PA's as needed?	See answer to Question 1.
14	Section 5.7: Subcontracting (Pages 15-16 of RFO)	If a subcontractor with CHHA\MLTC contracts (a LHCSA) has CDPAP consumer that decides to transition to traditional home care services, will the subcontractor be allowed to keep the case or will it belong to the Lead FI (considering that the CDPAP authorization belongs to the Lead FI)?	See answer to Question 1.  If a consumer decides to transition to traditional home care services after transitioning to a contracted FI, the consumer may choose their home care provider. The CHHA may be the consumer's choice.
15	Section 4.10: Transition Requirements (Page 13 of RFO)	Are FIs required to have a transition plan in place at the time of application, or are we only expected to put one in place if our RFO application is denied or the FI ceases operations for other reasons?	See answer to Question 1.
16	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Paragraph 4: How often will consumers be allowed to transition to another FI?	Consumers may select a new Lead FI in their service area at their discretion.
17	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Paragraph 5: What is the plan and timeline for additional transitions to MCO enrollment?	This question is not relevant to the development of an offer under this RFO.
18	Section 3.2: Collaborations (Pages 6-7 of RFO)	If a lead agency absorbs the consumers affiliated with a non-lead agency, is the lead agency potentially liable for any activities attributable to the non-lead agency for the period prior to the effective date of the award to the lead agency?	As a general matter, the Lead FI would not be liable for activities performed by the prior FI prior to the date the consumers were absorbed by the Lead FI.
19	Section 3.2: Collaborations (Pages 6-7 of RFO)	If my submission for lead FI is rejected and we submit multiple subcontracts with other possible Lead FIs, but they also get rejected – What happens to us?	See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS  
OFFER EVALUATION**

Question Number	RFO Reference	Question	Answer
1	General	If a Applicant for Lead FI is under investigation will they still be considered?	Yes. The Department will not automatically exclude offerors with current pending investigations from the scoring process. However, offeror should disclose such investigations in their Vendor Responsibility Questionnaire as identified in Section 6.1.C of the RFO.
2	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	Will experience in operating a LHCSA for decades be considered in the evaluation process?	Prior to RFO awards being made, the specific evaluation criteria and evaluation methodologies are not publicly available consistent with common Department procurement practices.
3	General	Will current enrollment of FI consumers be a factor at all in the Department's scoring and evaluation	See answer to Question 2.
4	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	Will a recent audit result of no deficiencies/findings be considered in the evaluation process?	See answer to Question 2.
5	Section 3.1: Eligible Offerors (Page 6 of RFO)	Will preference be given to FIs that were established prior to January 1, 2012?	See answer to Question 2.
6	Section 3.1: Eligible Offerors (Page 6 of RFO)	Will current FIs be given preference over entities that are not currently operational or were not operational on or before April 1, 2019, but which are "capable of providing fiscal intermediary services"?	See answer to Question 2.
7	Section 3.2: Collaborations (Pages 6-7 of RFO)	Will applicants with collaborating partners be favored or score higher because of the collaboration?	See answer to Question 2.
8	Section 3.2: Collaborations (Pages 6-7 of RFO)	Will applicants serving underserved areas be favored or score higher and should Offerors seek collaboration with FIs in underserved areas?	See answer to Question 2.
9	Section 3.2: Collaborations (Pages 6-7 of RFO)	Will FI applications that include collaborating partners be given preference over solo Lead FI applications?	See answer to Question 2.
10	Section 3.2: Collaborations (Pages 6-7 of RFO)	Will the Department of Health look more favorably on submissions that utilize subcontractors in a collaborative relationship, as outlined as a possibility in section 3.2?	See answer to Question 2.

**RFO #20039 QUESTIONS AND ANSWERS  
OFFER EVALUATION**

Question Number	RFO Reference	Question	Answer
11	Section 8.5: Award Recommendation (Pages 27-28 or RFO)	Paragraph 2: In light of DOH's goal to "award the fewest number of contracts," what constitutes sufficient preservation of consumer choice in a given geographic area? Typically, CMS has considered a choice of two options (e.g., with MCOs) to be sufficient consumer choice. Will DOH employ a similar standard? If not, what standard will it employ?	See answer to Question 2.
12	Section 8.3: Technical Evaluation (Page 27 of RFO)	Section 8.3 Technical Evaluation. Please clarify how the Technical Offers will be scored. The RFO does not state any scoring criteria.	See answer to Question 2.
13	Section 8.3: Technical Evaluation (Page 27 of RFO)	How will the Technical Evaluation Committee members referenced in section 8.3 independently score each Technical Offer that meets the RFO submission requirements to arrive at individual Committee Member scores?	See answer to Question 2.
14	Section 8.3: Technical Evaluation (Page 27 of RFO)	The RFO states the Technical Offer will be scored. What is the scoring methodology / criteria to be used? Do some requirement carry more weight than others?	See answer to Question 2.
15	Section 8.3: Technical Evaluation (Page 27 of RFO)	Will the scoring criteria used by the Technical Evaluation Committee be shared prior to the RFO submission date?	See answer to Question 2.
16	Section 8.3: Technical Evaluation (Page 27 of RFO)	(Page 27, Section 8.3. Technical Evaluation) – the RFO indicates the technical evaluation is 100% (up to 100 points) of the final score – are certain sections of the RFO weighted more heavily than others? If so, what is the point breakdown for each section.	See answer to Question 2.
17	Section 8.5: Award Recommendation (Pages 27-28 or RFO)	Do the agencies who work closely with the community and take the time to educate their population have any advantages in this selection process?	See answer to Question 2.
18	Section 8.5: Award Recommendation (Pages 27-28 or RFO)	Is any preference given, for any reason, to offers that include collaborations as opposed to those that do not?	See answer to Question 2.
19	Section 8.5: Award Recommendation (Pages 27-28 or RFO)	Is any preference given to existing FIs that were established before January 1, 2012 as compared to existing FIs established after that date?	See answer to Question 2.
20	Section 8.5: Award Recommendation (Pages 27-28 or RFO)	How will the five criteria from Section 8.5 be applied? Will there be objective criteria to determine those? Among the five criteria in Section 8.5, will any be weighted more heavily than others or will each carry equal weight?	See answer to Question 2.

**RFO #20039 QUESTIONS AND ANSWERS  
OFFER EVALUATION**

Question Number	RFO Reference	Question	Answer
21	Section 8.5: Award Recommendation (Pages 27-28 or RFO)	Will DOH use any criteria in making awards/selecting contractors that is not identified in the RFO?	See answer to Question 2.
22	Section 8.5: Award Recommendation (Pages 27-28 or RFO)	If existing FI "A" submits an offer and is also included as a subcontractor on existing FI "B's" offer, will FI "A's" willingness to serve as a subcontractor under FI "B's" offer in any way diminish the chances of DOH selecting or awarding a contract to FI "A"?	See answer to Question 2.
23	Section 8.5: Award Recommendation (Pages 27-28 or RFO)	How will Technical Scores be used in determining the selection of contractors? Section 8.5 does not mention Technical Scores.	See answer to Question 2.
24	Section 8.5: Award Recommendation (Pages 27-28 or RFO)	Section 8.5 states that the selection of contractors will be based on the five criteria in that section, yet Section 8.1 states that DOH will evaluate each offer solely on a Technical Score. Those two statements appear to conflict. How are those two statements reconciled?	See answer to Question 2.
25	Section 8.5: Award Recommendation (Pages 27-28 or RFO)	Section 8.5 states: "Further, it is the Department's intent to award the fewest number of contracts that preserve statewide access and consumer choice." Does this mean that offerors with larger service areas will be favored?	See answer to Question 2.
26	Section 3.2: Collaborations (Pages 6-7 of RFO)	Page 6, Section 3.2, is there an evaluation or scoring advantage for Lead FI proposals that include Collaborating Partners/Subcontractors?	See answer to Question 2.
27	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Confirm that if a Lead FI's submits and offer as a Lead and a subcontractor, the participation as a subcontractor will have no impact on the evaluation of the Offer to contract as a Lead FI.	See answer to Question 2.
28	Section 6.0: Offer Content (Pages 20-26 of RFO)	Can you please provide the scoring breakdown for the sections of the Technical Offer that comprise the total Offer score. For example, it appears there are five scored sections under Section 6.2 that comprise 100% of the total Technical Offer Score (6.2.F.1,(1), (2), (3), F.2, F.3., F.4, F.5) . a. What is each section's score worth out of 100? For example, What is the score of 6.2.F.1 (1), (2), (3), F.2 (1), F.3, F.4, and F.5 each worth. b. Can you please confirm if the Department will be awarding Offers based solely the highest Technical Offer scores received? c. If the answer to the above is no, what other factors will be considered?	See answer to Question 2.

**RFO #20039 QUESTIONS AND ANSWERS  
OFFER EVALUATION**

Question Number	RFO Reference	Question	Answer
29	Section 6.2: Technical Offer (Pages 21-26 of RFO)	Does a Lead FI application that has listed a number of prospective subcontractor FIs receive a more favorable ratings in the evaluation of the application versus an Offeror that submit no names as subcontractors.	See answer to Question 2.
30	Section 6.2: Technical Offer, Subsection F (Pages 23-26 of RFO)	As offers are evaluated, how will each portion of the technical offer as detailed in (F) of section six be scored or weighted by individual committee members?	See answer to Question 2.
31	Section 8.0: Method of Award (Pages 26-28 of RFO)	In order or importance depending on score what are the most important factors in the scoring system?	See answer to Question 2.
32	Section 8.0: Method of Award (Pages 26-28 of RFO)	Does being an independent living center or being a cdpap provider before 2012 start you off with a high score or higher chance to obtain contract?	See answer to Question 2.
33	Section 8.0: Method of Award (Pages 26-28 of RFO)	How will DOH review the applications? This will affect how FIs will construct their application. For instance, will DOH have one reviewer review the entire application of one FI or will each FI's application be broken up in parts for review by different DOH staff? We want to ensure that FI applicants present their Offer to DOH in the way most accessible to DOH.	See answer to Question 2.
34	Section 8.3: Technical Evaluation (Page 27 of RFO)	How will the Technical Evaluation Committee members referenced in section 8.3 independently score each Technical Offer that meets the RFO submission requirements to arrive at individual Committee Member scores?	See answer to Question 2.
35	Section 8.3: Technical Evaluation (Page 27 of RFO)	How will the technical evaluation be conducted to derive the Technical Score? In other words, what are the specific components and criteria of that scoring, and how will each component and criterion be weighted?	See answer to Question 2.
36	Section 3.2: Collaborations (Pages 6-7 of RFO)	If a Lead FI offer is submitted, will the application process be affected if the organization submits multiple applications as a subcontractor?	See answer to Question 2.  Offerors may only submit one offer as a Lead FI. However, there is no limit on the number of offers in which a current FI may be included as a collaborating partner.

**RFO #20039 QUESTIONS AND ANSWERS  
OFFER EVALUATION**

Question Number	RFO Reference	Question	Answer
37	Section 6.2: Technical Offer, Subsection F.2 (Pages 24-25 of RFO)	In section 4.2, Best Practices are identified as encouraged but voluntary. Specifically, the RFO states that "Such practices may include, but are not limited to:..." In F.2, when discussing the Narrative description of the Technical Offer, it is noted that the FI should describe how it will deliver, "...high quality services that best meet the needs of consumers including but not limited to:..." The language in F.2 removes an expectation that Best Practices are encouraged and helpful to an application; but, are not required. Are the items identified in F.2 mandatory if a FI application is to be considered, or are they voluntary? If they are mandatory, what factors are not included in the list (items a - g) that the Department would consider mandatory?	Best Practices identified in the RFO are, by definition, not mandatory. To the extent offerors describe Best Practices, they should describe their ability to perform the Best Practices in accordance with the criteria identified in Section 6.2.F.2 of the RFO.
38	Section 8.0: Method of Award (Pages 26-28 of RFO)	The RFO suggests that the Offer will be evaluated based solely on information submitted under the Technical Offer section of the RFO. Is that true?	Yes. See RFO Section 8.3: Technical Evaluation.
39	Section 8.3: Technical Evaluation (Page 27 of RFO)	The RFO talks about a tie breaker. Why is there a tie breaker unless there is some benchmark or score that the DOH is working off of. Please disclose the "points" that will be awarded to the applicants for each section of the application. And, once the scores and tie-breakers are applied, are you going to have some other measure to separate out the "winners" from the non-winners?	See response to Question 2. Per RFO Section 8.5: "Further, it is the Department's intent to award the fewest number of contracts that preserve statewide access and consumer choice."

**RFO #20039 QUESTIONS AND ANSWERS  
AWARDS**

Question Number	RFO Reference	Question	Answer
1	General	Does the Department have a specific number of contracts that it intends to issue pursuant to this RFO?	<p>See RFO Section 8.5 Award Recommendation. It is the Department's intent to award the fewest number of contracts that preserve statewide access and consumer choice.</p> <p>Offers should demonstrate how the FI would be able to serve any consumers in the counties they propose. Per RFO Section 4.5: "The Contractor will: a) Be willing and able to serve any consumer in the Contractor's selected service area;"</p> <p>The RFO seeks the information that the Department will use in the selection of fiscal intermediaries. While existing FI operations may be helpful to responding to the RFO, they are not deemed dispositive of an award.</p>
2	General	The RFO does not ask Offerors to indicate the number of consumers currently served in their FI program. Does this mean the Department is not comparing or using current enrollment of Offerors as a basis for selecting Offers?	See answer to Question 1.
3	General	In terms of FI choice, how much choice would the DOH seek to ensure? At least two FI's in every county? Every zip code? And would DOH take into account the resources of each FI? Not all FIs are created equally in terms of resources or competence even if they are awarded the RFO. How would DOH ensure that patients would have effective choice of an FI in every part of the state as the RFO seems to envision?	See answer to Question 1.
4	General	How many Fiscal Intermediaries does the State anticipate they will certify? a. What is the anticipated volume each designated FI will be expected to support?	See answer to Question 1.
5	General	How many Lead FI's will be allowed in each region or county?	See answer to Question 1.
6	Section 1.0: Calendar of Events (Page 4 of RFO)	The Calendar of Events does not include the date by which the Department will release the list of awardees or selected Offerors. Does the Department have a date for this established?	The Department does not have a date established for award notifications at this time. The anticipated contract start date is July 1, 2020.
7	Section 1.0: Calendar of Events (Page 4 of RFO)	While the anticipated start date for awarded contracts is July 1, 2020, what is the approximate date that DOH will make a determination on the awardees?	See answer to Question 6.

**RFO #20039 QUESTIONS AND ANSWERS  
AWARDS**

Question Number	RFO Reference	Question	Answer
8	Section 1.0: Calendar of Events (Page 4 of RFO)	Once the deadline of February 18, 2020 expires for the applications, when is the next time that someone can apply to provide fiscal intermediary services? I assume that they have to wait until the State issues the next RFO, but I would appreciate you confirming that or clarifying this point.	The Department has not determined when another solicitation for offers will be issued.
9	Section 1.0: Calendar of Events (Page 4 of RFO)	Can you tell me when FI's who are presently registered in the state who file their offer before the deadline will be notified of acceptance by the DOH?	<p>Upon receipt of an email identified as an offer being submitted under RFO 20039, the sender will receive a return email confirming receipt of the submission.</p> <p>The anticipated contract start date is July 1, 2020. Between the date of offer submission closing, March 3, 2020, and the contract start date of July 1, 2020, the Department will issue notification of awards.</p>
10	Section 1.0: Calendar of Events (Page 4 of RFO)	When does the State anticipate the evaluation committee's decision/communication of award notices? a. In the event of a "tie-breaker", will the State reach out to individual vendors for additional information?	<p>See answer to Question 1.</p> <p>RFO Section 8.3: Technical Evaluation states: "In the event of a tie, the raw scores for the following criteria will be used to break the tie(s):</p> <ul style="list-style-type: none"> <li>• First tiebreaker: Section 6.2.F.1.1.a-j – Description of ability and experience with providing, or how they are qualified to provide, the FI services defined by SSL § 365-f (4-a)(a)(ii) and 18 NYCRR § 505.28(i)</li> <li>• Second tiebreaker: Section 6.2.F.1.2 – Description of the ability and experience serving members with disabilities</li> <li>• Third tiebreaker: Section 6.2.F.1.3 – Description of the ability and experience to provide cultural and linguistic competencies that reflect the needs of the consumers they are proposing to serve"</li> </ul>
11	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Paragraph 5: How will MCOs be informed of FI choices and will they contract exclusively or have an open FI contract scenario?	<p>A list of contracted FIs will be posted to the Department's website and managed care organizations with CDPAP consumers will be notified by the Department.</p> <p>Refer to SSL § 365-f regarding the impact of the solicitation on the ability of MCOs and others to contract with FIs post-solicitation.</p>

**RFO #20039 QUESTIONS AND ANSWERS  
AWARDS**

Question Number	RFO Reference	Question	Answer
12	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	How many Lead FIs will there be per region?	See answer to Question 1.
13	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	What is the statutory authority for the assertion that only FIs that successfully enter into a contract may continue to provide FI services?	Social Services Law Section 365-f.
14	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	If at some point in the future, the State decides to amend the requirements to be a Lead FI OR expand the field of Lead FI's, will former FI's that converted to subcontractors, be allowed to retain their patients?	Eligible entities should base their decision to submit an offer on the requirements specified in RFO Section 4.0 Fiscal Intermediary Requirements, which outline the requirements in SSL Section 365-f.
15	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Can you apply and be awarded as both a lead and subcontractor?	Yes. RFO Section 3.2 states: "Each offer may only include one Lead FI which will be required to fulfill all program and contractual requirements . . . There is no limit to the number of offers that an eligible entity may join as a collaborating partner."
16	Section 3.2: Collaborations (Pages 6-7 of RFO)	May an FI be awarded a contract both as a Lead FI and that of a collaborating partner to a separate Lead FI application?	Yes. See RFO Section 3.2.
17	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	Does a provider need to have previously established MCO contracts to be awarded?	No. There are other eligibility and selection criteria that are not predicated on having previously established MCO contracts. See RFO Section 3.1 for eligibility criteria.
19	Section 3.2: Collaborations (Pages 6-7 of RFO)	If an FI applies as both a lead and a subcontractor, and the applicant is accepted as a Lead, what happens to their subcontracting agreement if the Lead agency on the subcontracting agreement is also accepted?	The entity may serve as both Lead FI in one contract and as a subcontractor in another Lead FI contract.
20	Section 5.3: Right to Modify RFO (Page 14 of RFO)	How will the State reoffer contracts to FIs? If a reoffer is made to a subcontractor who is collaborating with a Lead FI, how can they detach themselves from the Lead FI they are collaborating with, without penalties?	May re-offer under the terms provided for under 365-f(4-a)(C)(vi) "the commissioner is authorized to reoffer contracts under the same terms of this subdivision, if determined necessary by the commissioner."  This question is not relevant to the development of an offer under this RFO.

**RFO #20039 QUESTIONS AND ANSWERS  
AWARDS**

<b>Question Number</b>	<b>RFO Reference</b>	<b>Question</b>	<b>Answer</b>
21	Section 8.0: Method of Award (Pages 26-28 of RFO)	How many contracts will be given out in total?	Per RFO Section 8.5, it is the Department's intent to award the fewest number of contracts that preserve statewide access and consumer choice.
22	Section 8.0: Method of Award (Pages 26-28 of RFO)	Is there a quota or a number of FI applications that the State intends to hand out?	See answer to Question 21.
23	Section 8.5: Award Recommendation (Pages 27-28 or RFO)	Page 27, Section 8.5, when is the Department anticipating having awards for the RFO?	See answer to Question 21.
24	Section 8.5: Award Recommendation (Pages 27-28 or RFO)	How many contracts does the DOH anticipate awarding statewide?	See answer to Question 21.
25	Section 8.5: Award Recommendation (Pages 27-28 or RFO)	Can existing Fiscal Intermediaries with active businesses expect to have their offer accepted or will these active business be more likely to have their offers accepted?	Offers submitted by all Eligible Organizations as defined in Section 3.1 of the RFO will be evaluated according to evaluation process as identified in RFO Section 8.3: Technical Evaluation.
26	Section 8.5: Award Recommendation (Pages 27-28 or RFO)	In accordance with Section 8.5, the RFO indicates that the Department intends to award the fewest numbers of contracts. Please provide information regarding whether the Department has established either a minimum number and/or maximum number of contracts that will be awarded. Please also provide information regarding whether the minimum or maximum number of contract to be awarded is dependent on any factors not enumerated in Section 8.5 and identify those additional factors.	See answer to Question 21.
27	General	What are the State's long-term goals for this program?	The contract term under this RFO is expected to be for a period of five (5) years. Any renewals will be subject to applicable state procurement rules.

**RFO #20039 QUESTIONS AND ANSWERS**  
**POST-AWARD SUBCONTRACTING**

Question Number	RFO Reference	Question	Answer
1	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	If an FI was not selected through this RFO process, could they collaborate with an approved FI at a later date?	Per RFO Section 5.7: "During the term of the prime contract, Contractors may submit a request to the Department to add, change, or remove subcontractors. The Department reserves the right to review and approve the new subcontractors or subcontract agreements."
2	General	Once their Offer is submitted, confirm that FIs have the capability to amend their applications to adjust subcontractors.	Offerors do not have the ability to amend their offers including subcontractors between the time of submission and contract award.
3	Section 2.0: Overview and Important Information Regarding Requirements for Submitting Offers Under This RFO (Page 4 of RFO)	Will the Department allow entities that receive Offers an opportunity to work with those entities that do not receive Offers to develop subcontractor relationships and transition enrollees themselves?	Yes, after award of the prime contract.
4	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	If a FI submits an application to be a Lead FI and is not approved, may it then contract with an approved Lead FI to join as a subcontractor or collaborating partner?	See answer to Question 1.
5	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	If you get rejected as lead FI, can you apply as a collaborating FI?	No, there will be no opportunity to apply as a collaborating FI, but per RFO Section 5.7: "During the term of the prime contract, Contractors may submit a request to the Department to add, change, or remove subcontractors. The Department reserves the right to review and approve the new subcontractors or subcontract agreements."  Collaborating partners are considered subcontractors for the purposes of this RFO.
6	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	If a provider applies as a lead FI and is not awarded, can the provider then apply as subcontractor?	See answer to Question 1.
7	Section 3.1: Eligible Offerors (Page 6 of RFO)	Can you add as FI a partner in a rural area after the contract has been signed? Section 3.1	See answer to Question 1.
8	Section 3.2: Collaborations (Pages 6-7 of RFO)	If an FI collaborates as a subcontractor in an offer or multiple offers and the Lead FI or FIs are not awarded a contract does the collaborating FI have to terminate services? Will there be an opportunity to reapply with a Lead FI that is awarded a contract?	See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**  
**POST-AWARD SUBCONTRACTING**

Question Number	RFO Reference	Question	Answer
9	Section 3.2: Collaborations (Pages 6-7 of RFO)	Can a Lead FI contract with new Collaborating Partners after the awarding of a contract, as long as it is consistent with the provisions of the RFO?	See answer to Question 1.
10	Section 3.2: Collaborations (Pages 6-7 of RFO)	Why would anyone apply now for subcontractor status if they can become a collaborator/subcontractor later after their Lead FI application is denied?	Whether to be included in an offer as a subcontractor or collaborating partner is at the discretion of the entities submitting and/or being included as such.
11	Section 3.2: Collaborations (Pages 6-7 of RFO)	Can an organization apply as a Lead FI without having subcontractors in place prior to application? Can subcontractors be added after approval as an FI Lead? Do actual contracts need to be in place prior to application?	See answer to Question 1.  Lead FIs should submit offers that are complete and provide the information necessary to evaluate at the time of submission.  Lead FIs should have arrangements or commitments in place with subcontractors prior to offer submission, but finalized contracts do not need to be in place.
12	Section 3.2: Collaborations (Pages 6-7 of RFO)	For many FIs currently in operation, the collaborations described in the RFO will necessitate them to undergo a due diligence process prior to determining if and what the collaborative structure(s) will look like, including who will serve as lead FI vs a subcontractor. Such collaborations would also need a transition period to formalize and set up the new structures & adjust responsibilities: policies and procedures changes; contract terminations/negotiations/amendments; information/operational systems dismantling & transitions; communicating with staff, consumers and their consumers' personal assistants; human resource changes such as job duty changes, re-training, staff reductions; etc. An FI may be open to collaboration with one or more other FIs, but will not have a collaborative structure identified and ready to present in time for this RFO process. Will an FI be able to add or change collaborating partners after the initial selection?	See answer to Question 1.
13	Section 3.2: Collaborations (Pages 6-7 of RFO)	If we are denied as a Lead FI, can we subsequently contract as a Collaborating Partner with the Lead FI awarded the contract?	See answer to Question 1.
14	Section 3.2: Collaborations (Pages 6-7 of RFO)	If an agency is not accepted as a Lead FI, would they need approval from the DOH to collaborate with an approved Lead FI?	Yes, however, an eligible entity may submit an offer as a Lead FI and also be a collaborating partner in other offers.

**RFO #20039 QUESTIONS AND ANSWERS**  
**POST-AWARD SUBCONTRACTING**

Question Number	RFO Reference	Question	Answer
15	Section 3.2: Collaborations (Pages 6-7 of RFO)	Page 6, Section 3.2, what is the process for a Lead FI to add Collaborating Partners/Subcontractors in the future after being awarded?	See answer to Question 1.
16	Section 3.2: Collaborations (Pages 6-7 of RFO)	Page 6, Section 3.2, is the Department requiring offers to be a Lead FI to include a list of specific Collaborating Partners/Subcontractors in the offer responses, if they intend to utilize Collaborating Partners/Subcontractors during the life of the contract?	See answer to Question 1. The offer should include information on any subcontractors the Lead FI/prime contractor intends to use during the contract.
17	Section 3.2: Collaborations (Pages 6-7 of RFO)	If a company applies to be a Lead Offeror and does not win the contract, is it possible to become a Collaborating Partner for another Lead Offeror?	See answer to Question 1.
18	Section 4.1: Required Fiscal Intermediary Services (Pages 7-8 of RFO)	Could a collaborating FI join a lead FI after the lead FI wins the contract?	See answer to Question 1.
19	Section 5.4: Payment (Page 14 of RFO)	Can subcontracting agreements be entered into and submitted for DOH approval between the Award Recommendation date and the Contract Start Date (anticipated to be July 1, 2020)?	See answer to Question 2.
20	Section 5.7: Subcontracting (Pages 15-16 of RFO)	If a subcontractor becomes dissatisfied with their arrangement with a Lead FI, will the subcontractor be allowed to subcontract with another Lead FI? If so, will the arrangement require the State's approval?	See answer to Question 1.
21	Section 5.7: Subcontracting (Pages 15-16 of RFO)	If an FI files as a Lead and is not awarded a contract will there be an opportunity to file as a subcontractor and, if so, in what time frame.	See answer to Question 1.
22	Section 5.7: Subcontracting (Pages 15-16 of RFO)	What if an FI agrees to be a sub to a lead FI and subsequently changes their mind after an application has been submitted?	See answer to Question 2.
23	Section 5.7: Subcontracting (Pages 15-16 of RFO)	If an agency is denied their request to be a Lead FI, will they still be able to become a subcontractor?	See answer to Question 1.
24	Section 5.7: Subcontracting (Pages 15-16 of RFO)	If an entity is not selected as a lead FI, can it become a subcontractor to an awarded FI at a later date (Section 5.7, page 15 states that during the term of the prime contract, contractors may submit a request to add, change or remove subcontractors)?	See answer to Question 1.
25	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Do you have to be a subcontractor on the original lead application or can lead subcontract with an approved FI after the RFO award is announced?	See answer to Question 1.

**RFO #20039 QUESTIONS AND ANSWERS**  
**POST-AWARD SUBCONTRACTING**

Question Number	RFO Reference	Question	Answer
26	Section 5.7: Subcontracting (Pages 15-16 of RFO)	If an entity does not apply as a subcontractor FI in this RFO, are they prohibited from contracting with an entity that later becomes a Lead FI? And would any such contract between the Lead FI and someone who wants to be a subcontractor FI be subject to approval by the DOH? If prior approval from DOH is required, who is the Lead FI supposed to obtain approval from?	See answer to Question 1.
27	Section 5.7: Subcontracting (Pages 15-16 of RFO)	If we submit an RFO to be a lead FI and we are not approved, can we then subcontract with the Lead FI's that are approved and not cease operations?	See answer to Question 1.
28	Section 5.7: Subcontracting (Pages 15-16 of RFO)	If we are interested in obtaining a collaborative partner in the future, can the collaborative partner be an agency that submitted an offer but was not awarded a Lead FI contract?	See answer to Question 1.
29	Section 5.7: Subcontracting (Pages 15-16 of RFO)	If we submit an RFO to be a lead FI and we are not approved, can we then subcontract with the Lead FI's that are approved and not cease operations?	See answer to Question 1.  Per RFO Section 3.2 Collaborations "Collaborating partners, as subcontractors, may not bill Medicaid, Managed Care Plans, Consumers, or PAs for services provided in relation to an award under this RFO."
30	Section 5.7: Subcontracting (Pages 15-16 of RFO)	If a eligible entity submits an Offer and is not awarded a contract as a Lead FI, please confirm that the entity will be permitted to act as a subcontractor without submitting an additional application for subcontractor status?	See answer to Question 1.
31	Section 5.7: Subcontracting (Pages 15-16 of RFO)	If a Subcontractor is approved can it freely contract with other Lead FIs without additional approval from DOH?	See answer to Question 1.
32	Section 5.7: Subcontracting (Pages 15-16 of RFO)	POST RFO: Can a lead FI, recruit a current FI provider that had applied but was not named in the original submittal of the "RFO Winner"? Or named in another response?	See answer to Question 1.
33	Section 6.0: Offer Content (Pages 20-26 of RFO)	Both Attachment D, and this Section, asks whether the Lead or the subcontractor will be performing applicable FI services. Will lead selected contractors have an opportunity to revise this after an award is made? For example, it is clear certain tasks may not be delegated to a subcontractor. However, for other tasks, the Lead may ultimately decide to delegate more or less after the award.	See answer to Question 1.  A Lead FI/prime contractor should describe in their technical narrative and Attachment E the services each subcontractor is expected to perform.

**RFO #20039 QUESTIONS AND ANSWERS**  
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Question Number	RFO Reference	Question	Answer
34	Section 6.0: Offer Content (Pages 20-26 of RFO)	Is it permissible for a Lead to simply indicate they intend to perform those non-delegable tasks, but for all others, they will provide them jointly or determine distribution after an award is made?	See answer to Question 1. A Lead FI/prime contractor should describe in their technical narrative and Attachment E the name of and the services each subcontractor is expected to perform.
35	Section 3.0: Offeror Qualifications (Pages 6-7 of RFO)	Can a provider submit as a subcontractor only? Establish eligibility and then look to contract with the Lead FI's that are awarded.	Subcontractors do not submit offers, but are included in Lead FIs offers. See answer to Question 1.
36	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Par.3 states that a Lead FI may add Collaborating partners over the course of the 5-year contract. How does a current FI qualify as a Collaborating partner if they are not selected under this RFO and are required to cease operations?	See RFO Section 3.1. Eligible Offerors
37	Section 5.7: Subcontracting (Pages 15-16 of RFO)	Because of the complexity of the Lead FI/Subcontractor relationship, can the requirement to provide information about subcontractors be extended so that a Lead FI can indicate that it intends to use subcontractors and that it will amend the Offer after submission to provide details about the subcontractor.	See answer to Question 2.