

**Division of Family Health  
Bureau of Early Intervention  
Request for Proposals  
RFP No. 16234  
Questions and Responses**

**Program-Specific Questions:**

1. Question: What happened to the February 4, 2014 RFP (5 year contract) for the same services as this RFP? Was the incumbent extended until December 31, 2015?

Response: The Department withdrew this RFP and reduced the scope of the required deliverables; the Quality of Services reviews were removed from this procurement. Yes, the incumbent was granted an extension to its contract through 12/31/15.

2. Question: Who is the current vendor that provides these services to DOH?

Response: Island Peer Review Organization (IPRO) is the current vendor.

3. Question: What are the current contracted rates for each type of review?

Response: The current rates for each type of review are: Comprehensive Agency Review- \$5,546; Comprehensive Individual Review- \$2,773; Verification Review-\$2,966; Investigative Reviews may be reimbursed by one of these rates, based on the entity (agency or individual) and scope of the review.

4. Question: Can one firm that is a certified NYS Minority and Women-owned Business Enterprise be used to meet the total 30% MWBE usage goal?

Response: Yes, it is possible that one firm can fulfill this requirement.

5. Question: The contractor is responsible for making system modifications and provide ongoing system maintenance. Please provide technical specifications of the system we are expected to modify?

Response: Please see attached Data System Documentation manual for this information.

6. Question: What are the hosting requirements of the hardware to collect and manage the monitoring data?

Response: Please see attached Data System Documentation manual for this information.

7. Question: In Section D.1.c., page 26, the RFP states "a detailed timeline to meet the prescribed schedule of completing required activities in accordance with the deliverables outlines in Section C.2.a." Should the reference section actually be C.3.a.?

Response: Yes, the correct reference in this sentence is C.3.a

8. Question: In Section D.1.c., page 26, the RFP states "Bidders should identify individuals who will be responsible for certain project management positions, if known, as directed in Section C.3.c. of this RFP". Should the reference section be C.4.c.?

Response: Yes, the correct reference in this section is C.4.c

9. Question: Section D.1.a. page 24 states that that the proposal should be a maximum of 20 single-sided pages or 10 double sided, 8 1/2 x 11, double spaced using 11 point font or larger. May tables and charts use a smaller font provided they remain legible?

Response: Tables and charts can be added as attachments which would not be counted toward the 20 page maximum. Therefore, they should be submitted using an 11 point font as stated in the RFP.

10. Question: The RFP requires no more than 20 pages for the narrative and that all pages be numbered consecutively. May a table of contents (TOC) be included that does not count against the 20 pages and may the table of contents be numbered separately from the narrative (e.g., i, ii, iii for the TOC and 1, 2, 3 for the narrative)?

Response: Yes, you may add a table of contents and number the table of contents separately from the narrative.

11. Question: The address for submission says Room 859. The narrative following the address says 287. Which is correct?

Response: As stated in Section E.3.b. page 32 of the RFP, all bids must be delivered to Room 859, Empire State Plaza, Corning Tower, Albany, New York.

12. Question: May Attachment G be completed in single-space format instead of double-space? Can the work plan be completed in a smaller font size?

Response: As stated in Section D.1.a., page 25, the work plan can total no more than 10 pages and should be 8 1/2 X 11, double spaced, using an 11 point font or larger. Use the template provided in Attachment G.

13. Question: On Attachment H EI Cost Proposal Bid Detail Sheet, Column A (contract deliverables) has items that are numbered and unnumbered. There doesn't seem to be a consistency in the numbering. The first deliverable (CRRC) is #1. There is no corresponding #2. It appears that there are five separate deliverables to be costed but the numbering is confusing. Please explain the rationale behind the numbering system for the deliverables or provide a revised bid detail sheet with corrected numbers for the deliverables.

Response: Attachment H EI Cost Proposal Bid Detail Sheet has been corrected. See attached.

14. Question: What is the current annual value of the EI Program Monitoring contract?

Response: EI Program Monitoring Contract #C022988 term is for the period February 1, 2008 through December 31, 2015. The total value of this contract is \$20,131,418. This information can also be viewed at the State Comptroller's website at [www.openbooknewyork.com](http://www.openbooknewyork.com).

15. Question: Attachment H, the Cost Proposal Bid Detail Sheet provides for 120 hours per year to modify the monitoring application. Should substantial modifications and/or new work be required to fulfill the system requirements in this RFP, 120 hours may be insufficient to cover these requirements. How will hours for required system modifications above the 120 hours per year be reimbursed? Would costs be captured in a separate line or within the per review rate?

Response: If the Department authorizes additional system modifications beyond the 120 hours per year, it is anticipated they would be paid for at the same rate.

16. Question: Is Attachment M “Encouraging Use of NY Businesses in Contract Performance Form” to be included at the time of submission? If so, where should it be included?

Response: Attachment M should be included in the technical proposal portion of the bid.

**Contract Language-specific Questions:**

17. Question: Please consider making the following changes to terms and conditions - State of New York Agreement Form - Section III.C: Delete the entire clause and replace with the following: “This Agreement may be terminated by the Department for cause upon the failure of the Contractor to comply with the terms and conditions of this Agreement, including the attachments hereto, provided that the Department shall give the contractor written notice via registered or certified mail, return receipt requested, or shall deliver same by hand-receiving Contractor’s receipt thereof, such written notice to specify the Contractor’s failure and the termination of this Agreement. This notice shall provide Contractor with a reasonable opportunity to cure, which shall be at least ten (10) business days. If the Contractor does not cure the issues giving rise to the termination notice, termination shall be effective at the end of the cure period specified in the notice. The Contractor agrees to incur no new obligations nor to claim for any expenses made after receipt of the notification of termination.

Response: Yes, the Department will consider including a cure period in the terms of agreement with the successful bidder.

18. Question: Appendix D, General Specifications - 1 Section B: Consider deleting all of the text after “whereupon” in line two and substituting something like the following: “the undersigned will perform the work with the intent that it shall be completed within the time mutually agreed to by the parties.”

Response: Yes, The Department will consider this substitution in the contract with the successful bidder.

19. Question: Section C: Consider deleting “to the satisfaction of the Department” in lines two and three and substituting “in accordance with the terms of the Contract”

Response: No, the Department will not consider this change.

20. Question: Section F: Consider deleting “to the satisfaction of the Department” in lines two and three and substituting “in accordance with the terms of the Contract.

Response: No, the Department will not consider this change.

21. Question: Section G: Consider deleting “to the satisfaction of the Department of Health.”

Response: No, the Department will not consider this change.

22. Question: Section Q (Sufficiency of Personnel): Consider deleting this provision and substituting with the following: “The parties will discuss and mutually resolve any issues arising from the Department of Health’s opinion that services cannot be satisfactorily performed because of insufficiency of Contractor personnel.”

Response: No, the Department will not consider this change.

23. Question: Section T (Provisions Upon Default): Delete paragraph 1 and replace with the following: In the event that the Contractor, through any cause, fails to perform any of the terms, covenants or promises of this agreement, the Department acting for and on behalf of the State shall thereupon have the right to terminate this agreement by giving notice in writing of the fact and date of such termination to the Contractor. Prior to such termination date, the Department shall provide the Contractor with reasonable opportunity to cure, which shall be at least ten (10) business days. If the Contractor does not cure the issues giving rise to the termination notice, termination shall be effective at the end of the cure period specified in the notice. The Contractor agrees to incur no new obligations nor to claim for any expenses made after receipt of the notification of termination.

Response: See Response to Question 17.

24. Question: Section W (Contract Insurance Requirements): The successful bidder must without expense to the State procure and maintain, until final acceptance by the Department of Health of the work covered by this proposal and the contract, insurance of the kinds and in the amounts hereinafter provided, in insurance companies authorized to do such business in the State of New York covering all operations under this proposal and the contract, whether performed by it or by subcontractors. Before commencing the work, the successful bidder shall furnish to the Department of Health a certificate or certificates, in a form satisfactory to the Department, showing that it has complied with the requirements of this section, which certificate or certificates shall state that the policies shall not be canceled until thirty days written notice has been given to the Department. The kinds and amounts of required insurance are: a. A policy covering the obligations of the successful bidder in accordance with the provisions of Chapter 41, Laws of 1914, as amended, known as the Workers' Compensation Law, and the contract shall be void and of no effect unless the successful bidder procures such policy and maintains it until acceptance of the work (reference Appendix E).

b. Policies of Bodily Injury Liability and Property Damage Liability Insurance of the types hereinafter specified, each within limits of not less than \$500,000 for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by one person in any one occurrence, and subject to that limit for that person, not less than \$1,000,000 for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by two or more persons in any one occurrence, and not less than \$500,000 for damages arising out of damage to or destruction of property during any single occurrence and not less than \$1,000,000 aggregate for damages arising out of damage to or destruction of property during the policy period.

i. Contractor's Liability Insurance issued to and covering the liability of the successful bidder with respect to all work performed by it under this proposal and the contract. Contractor will name the State of New York as an additional insured on its General Liability Policy.

ii. Automotive Liability Insurance issued to and covering the liability of the Contractor with respect to all operations under this proposal and the Contract, by the successful bidder.

Response: Yes, The Department will consider this substitution in the contract for Insurance Requirements with the successful bidder.

25. Question: Section Y (Confidentiality Clauses): Please delete paragraph 4 and substitute the following: "4. All reports, data sheets, documents, etc. generated under this contract shall

be the sole and exclusive property of the Department of Health, provided, however, that the work papers prepared by CONTRACTOR which are pertinent to its performance under this AGREEMENT and are used in preparation of contract deliverables are the property of CONTRACTOR and will be maintained in accordance with the terms and conditions of Item 10 of the Standard Clauses for New York Contracts (Appendix A). Upon completion or termination of this AGREEMENT, the CONTRACTOR shall deliver to the Department of Health upon its demand all copies of materials relating to or pertaining to this AGREEMENT. The CONTRACTOR shall have no right to disclose or use any of such material and documentation for any purpose whatsoever, without the prior written approval of the Department of Health or its authorized agents, except when required by law, legal process or applicable professional standards. The forgoing notwithstanding, CONTRACTOR may retain a copy of information received, developed, or otherwise relating to this AGREEMENT in order to comply with its contractual obligations and applicable professional standards. Information stored on routine back-up media for the purpose of disaster recovery will be subject to destruction in due course. Latent data such as deleted files and other non-logical data types, such as memory dumps, swap files, temporary files, printer spool files and metadata that can customarily only be retrieved by computer forensics experts and are generally considered inaccessible without the use of specialized tools and techniques will not be within the requirement for the return of records as set forth by this paragraph. In the event of a termination for default or convenience, CONTRACTOR shall not have any liability to the Department of Health as a result of the Department of Health's use of any unfinished, incomplete, or draft work products and materials that are furnished to it.”

Response: The Department would agree to delete the stated paragraph and substitute it with the proposed language in the contract with the successful bidder.

26. Question: Would the Department consider adding Additional Terms (a-i):

- a. Limitation of Liability: “Contractor’s liability for any claim, loss, or liability arising out of, or connected with the products or services provided, and whether based upon default or other liability such as breach of contract or warranty, negligence, misrepresentation, or otherwise, shall, unless otherwise set forth in the contract as being without limitation, in no case exceed damages in an amount equal to \$2 million. Notwithstanding the foregoing, the Contractor remains liable, without monetary limitation, for direct damages for personal injury, death or damage to real property or tangible personal property or intellectual property attributable to the negligence or other tort of the Contractor, its officers, employees or agents.

Response: The Department will negotiate a limit of liability dollar amount that is satisfactory to both parties in the contract with the successful bidder.

- b. Use of Vendors. “DOH acknowledges that in connection with the performance of services under the Contract, Contractor may use the services of KPMG-controlled entities and/or member firms of KPMG International to complete the services required by this Contract. DOH also acknowledges that in connection with the performance of services under the Contract, Contractor uses vendors within and without the United States to provide at Contractor’s direction administrative and clerical services to Contractor. These KPMG-controlled entities, member firms of KPMG International, and vendors (“Third Parties”) may in the performance of such services have limited access to

information, including but not limited to confidential information, received by Contractor from or at the request or direction of DOH. Contractor represents to the State that each such vendor has agreed to conditions of confidentiality with respect to the Division's information to the same or similar extent as Contractor has agreed to pursuant to the contract. Contractor will have full responsibility to cause these Third Parties to comply with such conditions of confidentiality and Contractor shall be responsible for any consequences of their failure to comply. Accordingly, DOH consents to Contractor's disclosure to such Third Parties, and the use by such Third Parties of data and information, including but not limited to confidential information, received from or at the request or direction of DOH for the purposes set forth herein."

Response: No, the Department will not consider this change.

- c. Management Responsibility: Contractor's services may include advice and recommendations; but all decisions in connection with the implementation of such advice and recommendations shall be the responsibility of, and made by, DOH. The Contractor will not perform management functions or make management decisions for DOH.

Response: This language is not relevant to the scope of the contract.

- d. Third Party Usage: Notwithstanding anything to the contrary in this Contract, any advice, recommendations, information, deliverables or other work product provided to DOH under this Agreement is for the sole use of DOH, and is not intended to be, and may not be, relied upon by any third party, and all advice, recommendations, information, deliverables, or other work product may be marked to so indicate. Except for disclosures that are required by law or that are expressly permitted by this Contract, DOH will not disclose or permit access to such advice, recommendations, information, deliverables, or other work product to any third party without the Contractor's prior written consent.

Response: No, the Department will not consider this change.

- e. Ownership of Materials: Notwithstanding any other terms in this Contract, the Contractor retains all ownership rights in any proprietary methodologies, methods, processes, procedures, software, or source code of the Contractor that pre-exist or were developed outside the scope of this Contract. If any such property of Contractor is contained in any of the deliverables hereunder, the Contractor grants to DOH a royalty-free, paid-up, non-exclusive, perpetual license to use such Contractor intellectual property in connection with DOH's use of the deliverables.

Response: Yes, the Department will consider including these terms in the agreement.

- f. Communication: CONTRACTOR may communicate with the Department of Health by electronic mail or otherwise transmit documents in electronic form during the course of this engagement. The Department of Health accepts the inherent risks of these forms of communication (including the security risks of interception of or unauthorized access to such communications, the risks of corruption of such communications and the risks of viruses or other harmful devices) and agrees that it may rely only upon a final hardcopy version of a document or other communication that CONTRACTOR transmits to the Department of Health. The CONTRACTOR will exercise the same level of care to

protect the Department of Health's information under this AGREEMENT as CONTRACTOR exercises to protect its own confidential information but in no event less than reasonable care.

Response: No, the Department will not consider this change.

- g. Volume Rebates: Where Contractor is reimbursed for expenses, it is Contractor's policy to bill clients the amount incurred at the time the good or service is purchased. If Contractor subsequently receives a volume rebate or other incentive payment from a vendor relating to such expenses, Contractor does not credit such payment to its clients. Instead, Contractor applies such payments to reduce its overhead costs, which costs are taken into account in determining Contractor's standard billing rates and certain transaction charges that may be charged to clients. [Note to team: only necessary if there is a cost-reimbursable element].

Response: This question is not relevant to the scope of work in this RFP.

- h. Vendors: DOH is aware that Contractor may be providing assurance, tax and/or advisory services to other actual or potential vendors of DOH. Contractor will perform an internal search for any potential client conflicts relating to any of the City's vendors identified by DOH as having a role in connection with Contractor's performance of this Agreement. DOH hereby agrees that a vendor's status as a Contractor client does not impact Contractor's engagement to perform this Agreement Contractor will advise DOH of any conflicts of interest that could prevent it from performing the Agreement. However, Contractor is a large firm that is engaged by new clients on a daily basis and as a result it cannot guarantee that, following its conflict search, an engagement for any other related party will not be accepted somewhere else in Contractor's firm. Should any new information come to Contractor's attention, Contractor will promptly inform DOH. Contractor shall perform this Contract in accordance with applicable professional standards.

Response: No, the Department will not consider this change.

27. In Appendix H of the boilerplate DOH contract, would the Department consider these changes?

- a. Section I. – delete “to Covered Program, or” and at the end of this clause add the following: “Upon reasonable request by Covered Program, Business Associate agrees that it shall make available qualified individuals and/or a member of senior management responsible for security and data protection, for the purposes of discussing relevant information technology controls, including those policies, procedures, and controls relevant to the provision of services and security obligations under this AGREEMENT and applicable laws. Business Associate will make every reasonable effort to be responsive to such inquiries, but reserves the right to limit disclosure of details, if it determines, in its sole judgment, that such disclosure would put at risk the confidentiality, availability, or integrity of its own or its other clients' data.”

Response: The Department would agree to these changes in the contract with the successful bidder.

- b. Question: IV. B After “time specified by Covered Program,” insert “which shall be no less than thirty (30) days,”

Response: The Department would agree to these changes in the contract with the successful bidder.

- c. Question: IV. C. 2. Delete the following from the beginning of the second sentence: “Upon mutual agreement of Business Associate and Covered Program that”.

Response: The Department would agree to these changes in the contract with the successful bidder.

- d. Question: V. A – Replace “STATE” with “other party” in all instances.

Response: The Department would agree to these changes in the contract with the successful bidder.

- e. Question: V. B – Add the following at the end: “In no event shall Business Associate be liable to the STATE for any consequential, indirect, special, or punitive damages.”

Response: The Department would agree to these changes in the contract with the successful bidder.

- f. Question: V.I – Add the following additional items: “F. The parties agree to request, use, or disclose only the minimum necessary amount of Protected Health Information as appropriate under the circumstances.” and “G. Electronic Protected Health Information transmitted or otherwise transferred between the parties must be encrypted by a process that renders the Electronic PHI unusable, unreadable, or indecipherable to unauthorized individuals within the meaning of §13402 the HITECH Act and any implementing guidance, including but not limited to 45 C.F.R. § 164.402.”

Response: The Department would agree to these changes in the contract with the successful bidder.