

**Division of Family Health  
Program Performance Monitoring and Quality Improvement in Maternal and Child Health  
Programs Request for Proposals**

**RFP No. 16288**

**Questions and Responses**

**January 25, 2016**

**Technological-Specific Amendments:**

1. Question: The RFP states “There are two Cost Proposal Forms that should be completed and submitted in the bidder’s Cost Proposal.” Only one cost proposal form has been included (RFP Attachment B). Please provide the second cost proposal form.

Response: The language in the RFP is incorrect. There is only one Cost Proposal Form to complete. (Attachment B of the RFP).

2. Question: Number 1 states that “. . . with appropriate header and footer information.” Please explain what constitutes appropriate header and footer information.

Response: The header should contain the title of the RFP and whether it is the Technical or Cost Proposal. The footer should contain the page number.

3. Question: Attachment A and Attachment F in the RFP appears to be set up as a “fill in the blanks” form. however, the form function has been deactivated. Please provide this form separately in an active (fill in the blanks) format.

Response: Attachment A and Attachment F have been posted as fillable forms on the DOH website at <http://www.health.ny.gov/funding/rfp/16288/index.htm>.

4. Question: All bidders should complete Attachment H, Encouraging Use of New York Businesses in Contract Performance” should this actual be Attachment G?

Response: Yes, Encouraging Use of New York Businesses in Contract Performance is actually Attachment G, not Attachment H.

5. Question: The list of bullets on page 26, which appears to specify the order of the items required in the Technical Proposal, does not match the order specified on pages 26-27. Specifically, the Bidder’s Disclosure of Prior Non-Responsibility Determinations (Attachment C), the 3rd bullet on page 26 does not appear in the detailed outline beginning on the bottom of page 26 and continuing through page 31. Please clarify where Attachment C belongs.

Response: Attachment C is part of the technical proposal and therefore should be submitted with the Technical Proposal. Please insert Attachment C after Attachment A.

6. Question: RFP Attachment F...MWBE forms includes bid price information. Section E.1 requires that this form be submitted with the Technical Proposal. Should this form be submitted with the Cost Proposal instead?

Response: MWBE forms (Attachment F) should be submitted with the cost proposal (Attachment B).

### **Program-Specific Questions:**

1. Question: What kinds of research instruments will the winning bidder use? Phone/online/mobile surveys? Other? Clarifying information from applicant - In the description section, paragraph 1, it requests "program performance monitoring". What kinds of monitoring systems will a successful bidder propose? Phone/online/mobile surveys? Other?

Response: "Program performance monitoring" refers to on-site monitoring of the Division's Comprehensive Family Planning and Reproductive Health program, School Based Health Center programs and School Based Health Center – Dental programs. Please refer to section D. 3. Detailed Specifications, Performance Monitoring and Quality Improvement for a full description of the monitoring requirements and Attachment J and K for sample tools. Based on the requirements of the RFP and the sample tools provided, the bidder should propose instruments they determine will best meet the requirements and scope as outlined in the RFP.

2. Question: Will the Department be surveying the clients, the staff members and/or the public? Clarifying information from applicant - In the description section, paragraph 1, the opportunity requests that "providers participating" be monitored. Does this include the clients, the staff members, and/or the public?

Response: No, the Department will not be surveying the clients, staff members and/or public. The contractor will be surveying Comprehensive Family Planning and Reproductive Health Program (FPP) and School-Based Health Center (SBHC) and School-Based Health Center-Dental (SBHC-D) Programs. Please see section B on page 3 for a detailed description of the clinical, preventive and support services to women, children and adolescents that these programs provide.

3. Question: Is there an interest in identifying potential alternative programming?

Response: Not for this procurement.

4. Question: Is it important to the Department that a medical professional be part of the consulting team? Clarifying information from applicant - In the description section, paragraph 3, "the contractor will also assist the Department to develop performance measures for perinatal hospitals". Is it important to the contractor that a medical professional be a part of the bidding team?

Response: Section 6 Staffing Requirements on page 22 of the RFP outlines the staffing requirements for this project. As stated in this section, clinical (medical) staff are required for the scope of work. In addition, Section 4 page 20 of the RFP states The development and selection of performance measures, as well as risk adjustment, will be

done in consultation with a working group that includes representatives from both the Department and the perinatal hospital provider community that will include medical professionals such as maternal fetal medicine specialists, ob/gyns, obstetrical nurses and midwives among others as determined by the Department.

5. Question: What does the budget include?

Response: The cost proposal (Attachment B) should be completed in its entirety, The bid price is to cover the cost of furnishing all of the services detailed in the Scope of Work, including but not limited to materials, equipment, profit and labor to the satisfaction of the Department of Health and the performance of all work set forth in said specifications.

6. Question: What are the reporting requirements?

Response: Please refer to Section D.5 page 22 of the RFP that states "The contractor will be required to provide management reports as specified by the Department to ensure appropriate management of the contract and also to document for payment of services. The contractor will be required to prepare and submit monthly, quarterly, and/or annual reports as required by the Department, summarizing all core service activities and deliverables completed during the unit of time, as defined within the scope of work."

7. Question: Does the Department have an interest in full access to the data at all times?

Response: No, the Department does not need full access to the data set maintained by the contractor. The Department does need access to information and reports for viewing information only. Examples of this may be copies of finalized monitoring reports, schedule of on-site visits conducted and planned, and other reports that the Department may need to access on an ad hoc basis Section D. 3. b. (3) discusses the requirements of the monitoring data. D. 3 b. (3) g. states that the system established by the contractor shall allow "Department staff to directly access, view, and print monitoring reports from their contractor's system". (4) of this section also discusses the production of weekly, monthly and quarterly reports as well as a requirement for "ad hoc" reports. Section D. 5. discusses data necessary for perinatal regionalization as well as requirement for management reports for the Department. This section states "the Department reserves the right to request statewide, regional or provider-specific findings and information at any time, including profiles of quality of care concerns as needed to meet management information needs."

8. Question: The RFP indicates that the program initiatives, Family Planning and SBHCs, have used a contractor since 2011 to conduct program performance monitoring reviews of service providers.

a. Please identify this contractor.

Response: Island Peer Review Organization (IPRO) was the previous contractor.

b. Please indicate the term and the amount of this contract.

Response: The contract term was February 2008 through July 2014. This was part of a much larger contract that provided monitoring of Early Intervention Providers as well as

Family Planning providers, School Based Health Centers and School Based Health Center - Dental providers.

The component of that contract which relates to this procurement was an optional service for the Family Planning, School Based Health Center and School Based Health Center - Dental comprehensive site reviews at a cost of approximately \$600,000, annually. Perinatal Regionalization and Regional Perinatal Centers requirements are new to this RFP and were not part of the previous IPRO contract.

9. Question: Will the contractor have access to the Statewide Perinatal Data System (SDPS)?

Response: Yes, the contractor can work with NYSDOH staff to request data and or reports from SPDS that are necessary to accomplish the deliverables in the contract.

10. Question: The first paragraph indicates that the contractor will maintain monitoring data. Please indicate the size of this data base and how many years of monitoring data it contains?

Response: The monitoring data for Family Planning, School Based Health Center and School Based Health Center on-site monitoring for the previous contract period (Referred to in the previous question) is stored in an Access database. The size of the existing Access database is about 1 GB.

- a. Question: How many years of monitoring data in total must be maintained?

Response: The successful bidder will maintain monitoring data throughout the life of the contract. Upon completion of the contract, all data collected pursuant to this contract will be turned over to the Department of Health for any subsequent contractors undertaking the activities described in this RFP.

- b. Question: Subsection D indicates that system prints monitoring reports. Are these monitoring reports to be provided to providers while the contractor is onsite at the provider?

Response: Monitoring reports will not be provided at the on-site visit to allow sufficient time for the monitoring staff to develop a comprehensive accurate report. As stated in Section D.3.b.(2)c., page 11, after the on-site portion of the review is completed, the monitoring report is completed and sent to the facility reviewed within 30 days of the completion of the on-site visit, with a copy to the Department.

- c. Question: Section b. (4) indicates that the system application is Teleform. Will the new contractor receive the current contractor's license?

Response: The new contractor will not receive the previous contractor's Teleform license. It will be responsibility of the selected contractor to obtain their own license or proposed solution.

- d. Question: Will the new contractor receive all source code and programming documentation from the existing contractor?

Response: Yes, the previous contractor will provide the source code and documentation to the successful bidder of this RFP.

- e. Question: Paragraph 3 requires an update to case-mix indices for high risk maternal and neonatal services. Will the contractor have access to data from NYS Vital Records or to data from SPARCS?

Response: Vital statistics are available on the Department's web site at [http://www.health.ny.gov/statistics/vital\\_statistics/](http://www.health.ny.gov/statistics/vital_statistics/) and the Statewide Planning and Research Cooperative System (SPARCS) and is available in 3 levels of data access, public, limited and identifiable. Public use data contains de-identified data consisting of basic record-level detail. This data does not contain protected health information (PHI) under HIPAA.

Public use data can be obtained through the Health Data NY website and the Health Data Query System. The Health Data NY website provides access to de-identified data consisting of basic record-level detail. The Health Data Query System is a public tool that summarizes SPARCS discharge data in statistical tables on an annual, calendar year basis.

Limited data contains indirect identifiers that are deemed identifiable according to HIPAA standards. Limited data requests are reviewed by SPARCS Operations staff. Identifiable data pertains to a particular individual's facility stay which, if disclosed, would constitute an unwarranted invasion of personal privacy, as stipulated in Department regulations, Title 10, NYCRR 400.18. Identifiable requests are reviewed by the data review group.

To apply for limited and identifiable data, download and complete the SPARCS Limited and Identifiable Data Request Form (DOH-5132) from the forms page. Form DOH-5132 replaces previous forms DOH-4385 and DOH-4395.

- f. Question: Is the perinatal hospital system maintained on the same database as performance monitoring of providers?

Response: No it is not.

11. Question: The RFP indicates that the clinicians should be from outside NYS or outside a RPC's affiliate network and not from a contiguous RPC network. Does this mean that these clinicians do not need NYS licenses? Is this a contradiction to the requirement under Staffing (Section 6, paragraph 3, p. 23) that Clinical staff must hold NYS licenses?

Response: Staffing requirements differ for the two components of this RFP. Page 18 Section C refers to site visit teams for regional perinatal centers and affiliate hospitals. In order to prevent a conflict of interest, these clinicians can be licensed outside NYS (but do need to be licensed to practice in one of the States within the U.S.) or licensed within NYS but not from within the RPC's or affiliative network region. All clinicians used for on-site monitoring must have the appropriate background and expertise to meet the requirements of the RFP.

Section 6, paragraph 3, p 23 refers to site visits for family planning and SBHCs. In this case, the clinicians will have licensure in NYS. This is being done to ensure all bidders are aware of the legal requirements, regulations and policies of NYS.

12. Question: The first paragraph on p. 23 indicates that all subcontractors must be approved by the Department. How should the bidder request this approval? Does this request go in the bidder's proposal, or in some other way?

Response: Bidders may propose the use of a subcontractor in their proposal. The Contractor shall obtain prior written approval from NYSDOH before entering into an agreement for services to be provided by a subcontractor. All subcontractors proposed by the bidder are subject to the same eligibility criteria listed in Section C. of this RFP. The Contractor is solely responsible for assuring that the requirements of the RFP are met. Bidders should not enter into an agreement with subcontractors until they have written approval from NYSDOH. NYSDOH will only approve subcontractors after the contract is awarded.

13. Question: The last sentence of this subsection (p.29) reads "In their response, bidders should address the need to initiate program performance monitoring, including maintaining of the data system supporting within the first three months of the contract." Please clarify this sentence. This sentence is unclear. Please clarify what the bidder is to address in the proposal to meet this requirement.

Response: This refers to the Start Up Plan discussed in Section e.1.f. The start up plan will address the bidder's plan to initiate monitoring within 90 days of notification of contract approval from the Office of the State Comptroller as well as a description of activities needed to maintain the data system supporting program monitoring.

14. Question: The bidder is required to describe the infrastructure being proposed. Please provide the information necessary to respond, including size of database, number of years of data, types of data (i.e., scanned review tools, reports, letters, tracking, etc.).

Response: The existing data system is a TELEform/Access scanning system. The Access database contains monitoring data from TELEform scannable monitoring tools and report templates. The size of the existing Access database is about 1 GB. The reports are generated from Access Database. This includes reports such as provider-specific monitoring reports as well as site visit schedules, and all monitoring tools.

15. Question: Paragraph 4 has instructions for the fee for "Monitoring Tool Review", but there is no row labeled as such on Cost Proposal Form 1.

Response: Costs related to the Monitoring Tool Review, should be included in the Planning Activities Flat Fee Rate (Year One Only - Flat Fee rate).

16. Question: The fourth paragraph on p. 32 states that "There is a separate allowance in related to data system development and maintenance and data analysis." There is no place on the form to reflect these costs. Where should these costs be noted?

Response: The Cost Proposal has been revised to include a data system development and maintenance and data analysis allowance.

17. Question: The RFP specifies a total of 155 sponsoring agencies (49 FP, 50 SBHC, and 56 SBHC-D) and more than 1,600 sites (178 FP, 226 SBHC, 1,200+ SBHC-D). The RFP further specifies 100 site visits per year. Will each site listed for any one sponsoring agency be reviewed? If each site per agency (or a sample of those) is visited, will each visit be a site visit for billing purposes? Will the protocols for the number of sites per sponsoring agency to be reviewed be adjusted to accommodate the target number of 100 reviews per year?

Response: The actual schedule of site visits will be determined in collaboration with Department staff. In some cases a limited number of clinic sites for one sponsoring agency will be visited (e.g., a long-standing provider with no significant issues) and in other cases each site may require an on-site visit. As stated in Section D.3.b.(2) of the RFP, on-site visits are estimated to take between 1-4 days. On average, 3 on-site days comprise one site visit. The contractor will be expected to complete up to 100 site visits per year that totals 300 on-site days annually.

18. Question: Will the contractor be required to make site visits to each RPC's affiliate hospitals?

Response: As stated in Section D.3.(6)(vi.), for bidding purposes the applicant will be conducting on-site visits for the redesignation process to all Regional Perinatal Centers, all Level 3 hospitals (currently there are 35), 26 Level 2 hospitals and 50 Level 1 hospitals. In addition, the bidder must include the potential for 10 additional days for on-site visits to hospitals appealing their designation.

19. Question: The RFP specifies the contractor will provide consultation and support through webinars, learning collaboratives and/or other quality improvement efforts. The bid detail sheet only provides a line for costing webinars. Please clarify the anticipated extent of this requirement and where costs other than webinars should be included.

Response: The successful bidder will only be required to provide support to DOH through webinars. Learning collaboratives are supported through another contract so no costs should be part of this proposal. Webinars provided will support the Departments' quality improvement efforts but there will be no additional costs to the contractors for activities not specifically included in this RFP.

20. Question: Does the Department anticipate that there will be consolidated reviews with family planning reviews (conducted simultaneously with reviews from other agencies)? If so, how many are anticipated and in which regions?

Response: No, these on-site reviews will only be conducted by the successful bidder of this RFP.

21. Question: The scope of work appears to be divided into two distinct parts: one addressing SBHC-SBHC-D and Family Planning Clinic reviews over the course of the five-year period and one addressing RPCs which must be completed by the second year of the five-year contract. Please confirm that the Department intends to award a single contract for both parts of the scope of work.

Response: Yes the Department intends to make one award for this RFP.

22. Question: The RFP specifies that a return site visit may be required in cases where a provider is potentially problematic. How often is this anticipated? Where should the costs for the return site visits be included?

Response: The RFP specifies that the contractor will conduct 100 on-site visits to accomplish the objectives listed in the RFP. Each visit, on average, will take three days. The Department is aware that some on-site visits will take less than three days; conversely, the visit may take more than the allocated three days. If an agency requires a return site visit based on the significance of the issues identified during the on-site visit and the inability of the agency to satisfactorily address the issues in the corrective action plan, the day(s) for the return visit will be calculated into the total of 300 days annually. The Department will not expect more than 300 days per program year.

23. Question: The RFP specifies that there is an existing data system for this contract. The description of the system appears to be in reference to both the Tele form forms processing application and the Early Intervention Program system currently in use on another contract. That system has not been used for the scope of work envisioned in this RFP. The Teleform system referenced is a paper/Electronic Hybrid Data Capture/Processing system, not a direct electronic entry system, and does not perform all functions as listed [e.g., page 13, (3) f and (3) g.]. Please confirm/clarify the system that is currently available for this scope of work.

Response: . The existing data system is a TELEform/Access scanning system. The Access database contains monitoring data from TELEform scannable monitoring tools and report templates. There is currently no system that exists for the perinatal quality/regionalization aspect as that was not included in the previous contract.

24. Question: The RFP states that the “contractor will develop an electronic survey which will be disseminated to all birthing hospitals...” The referenced original survey format is paper-based, not electronic. Please confirm that the bidder is to develop an electronic survey system prior to beginning the actual survey. Please specify where the costs for development of this system should be included on the bid detail sheet.

Response: Yes, an electronic survey should be developed and the cost should be included in the section of the cost proposal that states "Develop and Disseminate RPC survey..."

25. Question: Please clarify the average length of time for RPC site visits that should be used for costing purposes. Paragraph d. on pg.18 says “Contractor should assume an average one full day on-site for each perinatal hospital.” It seems to include Level 1-III within that one day category. But on page 18 c. it also seems to include RPC or Level III, and level I-II requesting a higher level for the site visits with the higher credentialed team. The bid detail sheet seems to reference Page 19 vi. which lists 17 RPCs and 35 Level III – 35 sites makes a big difference. From past experience how many Level I and II sites might ask for a higher designation?

Response: As stated in the RFP, the bidder should estimate 20% of Level II and Level I hospitals may require an on-site visit. During the last redesignation effort which was several years ago, there were approximately 22 hospitals that requested a higher level designation.

26. Question: The RFP specifies that site visit teams consist of maternal-fetal medicine specialists and obstetricians, neonatologists, obstetric and neonatal nurses and a team leader. Please clarify if each team must include all of these staff or only some.

Response: For perinatal designation, each team should include a physician with an obstetrical background, and a physician with a neonatal background and a nurse with an obstetrical background (either obstetrical/labor and delivery) or neonatal intensive care unit experience. Having a maternal-fetal medicine specialist on a team to visit the RPC or Level 3 rather than an obstetrician may result in a stronger team for these higher level visits.

27. Question: The requirements for the Project Manager are not clearly aligned with the two distinct pieces of the scope of work. One piece is ongoing review of SBHC, SBHC-D and family planning throughout the five years of the contract. The other piece is a time-limited review of RPCs. The Project Manager will potentially be too burdened during the initial two years and under-utilized in the final three years. Additionally the skill set needed for the first piece is vastly different from the skill set needed for the second piece. Will the Department allow a proposal with two Project Managers: one who remains for the five years of the contract and one who finishes when the perinatal redesignation work is completed?

Response: Yes, this is allowable, however, the perinatal regionalization work does span the entire 5 year contract period. Year 3-5 includes performance measure development for RPCs and Level I-III perinatal hospitals. Each bidder should include information regarding the project manager(s) in their proposal that meet the requirements of the RFP.

Question: The third bullet in the description of teams is unclear. There is an “and/or” phrase. Please clarify if the team member is approved if they have either the specified previous employment or are familiar with Title X or would be approved if they have previous clinical employment plus either employment in a Title X facility or familiarity with Title X.

Response: The RFP states that pre-opening site visits and site visits for SBHC and SBHC-D programs will consist of one or two individuals depending on the scope and size of the program. If the team consists of two individuals, at least one must possess the clinical background and work experience in the program area being monitored. If the team requires a second individual, that individual could have training/and or experience in the administration and/or fiscal management of organizations providing health or human services.

28. Question: The RPC work must be completed by year two, but the bid detail sheet includes a five year cost. Please confirm this is correct. Will the bid price for the RPC tasks be paid as the work is completed or will it be divided into the full five-year term? This same situation is true for the other deliverables below the Perinatal Redesignation tasks on the bid detail sheet – tasks that are completed in less than five years. Please clarify how reimbursement will occur for these tasks.

Response: In this instance, the five year total would be the same as the unit price. Vouchers are paid on a quarterly basis at the completion of the work. See Section H.5 for further details.

29. Question: The bid detail sheet includes annual workload for the SBC/SBHC-D reviews and unit definitions for the remaining tasks. Please confirm that the unit definitions are for the life of the contract and not for each year of the contract. For example, "Develop performance measures for RPCs ..." shows 3 documents. Please confirm that this is a total of 3 documents over the five-year period and not 15 documents (3 per year) over the five-year period.

Response: This is a total of 3 documents developed over years 3-5 (One for RPCs and Level I through III perinatal hospitals, one for SBHCs and one for SBHC-D programs.)

30. Question: For costing purposes, will the review team complete an onsite visit at the site only or will the review team also need to visit the sponsoring Article 28 agency site?

Response: For School Based Health Centers and School Based Health Center – Dental Clinics, the contractor will in most cases have to visit the Article 28 agency site (in addition to a visit at the clinic site) for a review of specific policies, procedures and personnel records as they may not be located at the clinic site. For Family Planning programs the contractor will in most cases directly visit the clinic site.

31. Question: For costing purposes approximately what percentage of SBHC, SBHC-D and FP sites use electronic health records?

Response: 90% of the SBHCs and all but one family planning provider use electronic health records. Only one SBHC-D program uses electronic health records.

32. Question: On the Bid Detail sheet, how should the 12 preparation days for the 22 pre-opening onsite reviews be accounted for? The form allows for separate costing of the pre- and post-days for the comprehensive site visit that follows the pre-opening visit category.

Response: The cost of preparation should be built into the overall cost of the pre-opening site visit.

33. Question: Are there currently one contract or multiple contracts for these services? Who are the vendor(s) who currently provide these services? What are the current contract number(s)? What are the contract value(s)? Is the scope of services in this RFP the same as the current contract(s)?

Response: See response to question 8.

34. Question: Please provide the name of the individual(s) who currently oversee these programs at the Division.

Response: The family planning program and perinatal regionalization are organizationally placed in the Bureau of Women, Infants and Adolescent Health under Kristine Mesler, Bureau Director and the SBHC and SBHC-D programs are in the

Bureau of Child Health under Susan Slade, Bureau Director.

35. Question: Refers to the Department's "existing monitoring data application." Which application is this? Is this application owned by the Department or the current contractor?

Response: In accordance with standard contract language "All reports, data sheets, documents, etc. generated under this contract shall be the sole and exclusive property of the Department of Health. 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. Therefore, the application is owned by the Department.

36. Question: Is the technology software referred to on page 21 the same technology application referred to on page 12?

Response: Yes.

37. Question: Does the Division prefer to change the current approach to meeting the requirements under the new contract? If yes, please elaborate.

Response: The requirements are listed in the RFP please refer to the RFP to understand the requirements of this procurement.

38. Question: Is there any specification to the 5 years of expertise related to health care program performance monitoring and/or health care quality improvement?

Response: The experience required by the contractor will include experience such as establishing standards for program review based on current standards of care, on-site monitoring of health care facilities (i.e. Article 28 facilities), clinics, and quality improvement initiatives to improve health outcomes. Activities related to programs such as those as specified in Section B. Background and Section D. Detailed Specifications and SOW would also be considered eligible experience.

39. Question: Please provide a list of firms that have asked questions or expressed interest in this RFP so we can reach out to firms to discuss proposing on this contract jointly.

Response: It is New York State Department of Health's policy not share information about an open procurement prior to its close. This includes letters of intent and applications received.

40. Question: Please provide clarification on what is required in section E.f. Start-up Plan, specifically with the annual workplan and/ or five year workplan.

Response: After review, the department agrees that the requirement is unclear. The Department does not need a five year workplan, but does want the bidders to provide a detailed work plan for all components below:

- how they intend to ramp up staffing;
- development of data systems; and
- description of other processes necessary to support the completion of the deliverables described in this RFP.

### **Legal Language-Specific Questions:**

1. Question: Per review of the RFP, a contractor must sign a certified statement indicating it accepts all terms and conditions as provided in the RFP and all exhibits and attachments. Will the Department negotiate terms and conditions that do not substantially change the existing terms and conditions?

Response: The Department will consider terms and conditions proposed by the contractor provided it does not substantially change the existing terms and conditions.

2. Question: Per review of the RFP, a contractor must sign a certified statement indicating it accepts all terms and conditions as provided in the RFP and all exhibits and attachments. Will the Department negotiate terms and conditions that do not substantially change the existing terms and conditions?

Response: The Department will consider terms and conditions proposed by the contractor provided it does not substantially change the existing terms and conditions.

3. Question: In light of the above, we have provided modifications to terms and conditions that we would like the Department to:

- a. Consider adding at the end: "Notwithstanding the foregoing, Contractor is not required to turnover its work papers to the Department; Contractor's work papers are the property of Contractor."

Response: The Department will consider the proposed language in the contract with the successful bidder.

- b. In lines four and five of the last paragraph, consider changing "to the satisfaction of the Department" to "in accordance with the terms of the Contract."

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

- c. Delete the second sentence and substitute the following: "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."

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

- d. Please delete and replace in its entirety with the following: “Contractor shall be fully liable for the actions of its agents, employees, partners or Subcontractors and shall fully indemnify and save harmless the STATE from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property and intellectual property caused by any intentional act or negligence of Contractor, its agents, employees, partners or Subcontractors without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of the STATE.”

Response: The Department will consider including this term in the terms and conditions of the agreement with the successful bidder.

- e. Consider deleting all of the text after “whereupon” in line two and substituting 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.

- 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.

- g. 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.

- h. Consider deleting “to the satisfaction of the Department of Health.”

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

- i. (Date/Time Warranty): Note this term, Consider deleting this provision and substituting something along these lines: “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.”

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

Appendix D, General Specifications Section T (Provisions Upon Default) Insert “material” before “terms”; add the following at the end: “, provided that the Department has first provided Contractor with a reasonable opportunity (of no less than ten (10) business days) to cure the deficiency in performance and the Contractor has failed to do so.”

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

- k. Add the following after the first sentence: "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."

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

- l. Appendix D, General Specifications Section W (Contract Insurance Requirements) Delete "changed or" in line eight.

Response: No. However, the Department will consider alternative coverage language.

- m. Delete "or by its subcontractors."

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

- n. 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, or otherwise permitted by this Agreement. 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: No, the Department cannot agree to this language but will consider it with some modifications.

- 4. Question: Additional Terms: Consider adding the following terms

- a. "Notwithstanding anything else herein to the contrary, the liability of the Contractor on account of any actions, damages, claims, liabilities, costs, expenses or losses in any way arising out of or relating to the services performed under the Contract shall be limited to the amount of fees paid or owing to Contractor under the Contract. In no event shall Contractor be liable for consequential, special, indirect, incidental, punitive or exemplary damages, costs, expenses, or losses (including, without limitation, lost profits and opportunity costs). This section shall apply regardless of the form of action, damage, claim, liability, cost, expense, or loss asserted, whether in contract, statute, tort (including but not limited to negligence) or otherwise and shall survive termination or expiration."

Response: No, the Department will not consider this language but the will consider a limit of liability dollar amount that is satisfactory to both parties in the contract with the successful bidder.

- b. "Notwithstanding any other term in this Agreement, DOH acknowledges that in connection with the performance of services under the Contract, Contractor may use the services of Contractor-controlled entities and/or member firms of the Contractor 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 Contractor -controlled entities, member firms of the Contractor, 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. "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. "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. "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. "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. "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."

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

- h. "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.