

**New York State Department of Health
RFP #20034: Medicaid Redesign Team (MRT) Transformation Consulting Services**

Questions and Answers Posted 07/15/2021

Question #	Corresponding RFP Section	Question	Answer
1.	General	Will the State share a list of organizations that submitted responses for this RFP?	No. This can be obtained through a Freedom of Information Law (FOIL) request.
2.	General	What is the budget that has been approved or allocated for this effort?	This question is not relevant to a submission of proposals under this RFP. The Department is relying on bidder to provide hourly rates, which ultimately will result in a final contract value.
3.	General	What is the maximum budget for this project?	Please see answer to Question #2.
4.	General	Can NYS DOH share their expected overall budget for the proposed tasks?	Please see answer to Question #2.
5.	General	Is there a budget for this scope of work?	Please see answer to Question #2.
6.	General	Our company brings specific expertise on federal policy for Medicaid and is interested in responding to this RFP as a subcontractor. We would like to have assurance that being awarded as a subcontractor on this RFP # 20034 will not prevent our company from responding to any future Medicaid training and change management RFP's or future RFP's that have training and change management as a significant component. Can NY please communicate information regarding any possible downstream bid preclusions?	At this time, the Department does not believe that being a prime or subcontractor on this RFP's resulting contract would prevent an organization from submitting a bid under any future RFPs.
7.	General	Please indicate if the contractor performing this work will be prohibited from participating in any downstream or future MRT-related procurements. If yes, please indicate the specific procurements.	Please see answer to Question #6.
8.	General	Will the contract resulting from this procurement serve as a backdrop contract DOH can use to acquire services for related future initiatives?	No.

Question #	Corresponding RFP Section	Question	Answer
9.	General	Is there an incumbent firm for these services? If so, what is the current dollar amount and effective dates of the contract?	The incumbent firm is Brenda Jackson Consulting, LLC. You can find this information on www.openbookny.com .
10.	General	Is the State working with a current vendor on services similar to those described in the scope of work? If yes, who is the vendor and what is the annual contract amount?	Please see answer to Question #9.
11.	General	Please provide the names of vendors who submitted questions. If the State is unable to provide the names, please provide the number of vendors who submitted questions.	Please see response to Question #1.
12.	Section 1.0: Calendar of Events (Page 3)	What is the anticipated award date of the contract?	At this time, the anticipated award date of the contract is November or December 2021.
13.	Section 2.1: Introductory Background (Page 3)	When does the 5-year timeline kick-off? Can they share their projected timeline for each phase?	<p>The five-year timeline will commence on the contract start date which is tentatively anticipated for March 1, 2022.</p> <p>Given changing programmatic and CMS requirements, the Department does not have an anticipated timeframe for each program's individual phase(s). Bidder are not required to share projected timelines as part of their Technical Proposal.</p>
14.	Section 2.1: Introductory Background (Page 3)	Will the projects (Children's MRT Transformation, Transitioning Foster Care Population to Managed Care, OPWDD Transition to Managed Care, Integrated InCK) run simultaneously? Is there a priority or staging the State is contemplating?	Yes, it is expected that the majority of this work will be conducted simultaneously for these projects. Additionally, priority would be determined by state and federal requirements and due dates as warranted.
15.	Section 2.1: Introductory Background (Page 3)	Where is the State in the process thus far? Has any material or collateral been developed? What can be shared?	The State has already been working on these initiatives. Please refer to the NYS DOH and OPWDD websites for each initiative and current stage of development.
16.	Section 2.1: Introductory Background (Page 4)	This section states: "The DOH will continue to work with the Center for Medicare and Medicaid Services (CMS) to receive approval for the implementation of the new 1115 timeline and to launch Managed Care as the payment mechanism for the	Yes, the Children's 1115 Waiver Amendment was approved by CMS in August 2019. Updates on

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		<p>Children’s Behavioral Health services, inclusive of the foster care population, in fall of 2019.”</p> <p>Has this program already been implemented?</p>	<p>implementation to date can be found on the website at:</p> <p>https://www.health.ny.gov/health_care/medicaid/redesign/behavioral_health/children/overview.htm</p>
17.	Section 2.1: Introductory Background (Page 4)	<p>This section states “The DOH’s Office of Health Insurance Programs, along with Montefiore Medical Center as the Lead Organization, plan to implement the InCK Model in an eight zip code region of north central Bronx County. The Bidder will assist in implementing this initiative.”</p> <p>When looking at NYS’s website it indicates that the contract period for this initiative began with Montefiore on January 1, 2020. In order to better understand next steps, can DOH share what readiness or implementation activities have already occurred in preparation of rolling out the model?</p>	<p>NYS has already implemented a contract and working with stakeholders to lay the framework and workplan as required by CMS. The first report to CMS is being drafted regarding planning development.</p>

Question #	Corresponding RFP Section	Question	Answer
18.	Section 2.2: Important Information (Page 4-5)	<p>Will the State consider modifying Article IX, Section J - Indemnification of the New York State Department of Health Contract located within Appendix X of Attachment 8 to read as follows (modifications to the language are shown in red):</p> <p>CONTRACTOR shall be fully liable for the actions of its agents, employees, partners or subcontractors and shall fully indemnify and save harmless the DEPARTMENT 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 DEPARTMENT.</p> <p>Notwithstanding the above, the aggregate liability of CONTRACTOR for any and all Losses arising out of or relating to the provision of any services by CONTRACTOR or its officers, director or employees shall not exceed the greater of three times the compensation for the services giving rise to such Loss or \$5,000,000. The CONTRACTOR shall have no liability for the acts or omissions of any third party (other than our subcontractors). In no event shall either party be liable in connection with this agreement or the services for any loss of profit or incidental, consequential, special, indirect, punitive or similar damages.</p> <p>For purposes of this agreement, "Loss" means damages, claims, liabilities, losses, awards, judgments, penalties, third party claims, interest, costs and expenses, including reasonable attorneys' fees, whether arising in tort, contract or</p>	<p>The Department will not be able to consider limiting the CONTRACTOR's aggregate liability for "Losses" under the Contract. The Department will not be able to consider absolving the CONTRACTOR from liability for the actions of its agents, employees, partners or subcontractors.</p>

Question #	Corresponding RFP Section	Question	Answer
		<p>otherwise. For the avoidance of doubt, multiple claims arising out of or based upon the same act, error or omission, or series of continuous, interrelated or repeated acts, errors or omissions shall be considered a single Loss.</p>	
19.	Section 2.2: Important Information (Page 4-5)	<p>Will the State modify Section III(C) on Page 16 of Attachment 8 to the following? "This Contract may be terminated by the DEPARTMENT for cause upon the failure of the CONTRACTOR to comply with the terms and conditions of this Contract, 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 therefore, such written notice to specify the CONTRACTOR'S failure and the termination of this Contract and allow ten (10) business days for the</p>	<p>The Department would consider modifying Section III(C) of the NYS Department of Health Contract in connection with the negotiation of the final Contract with the successful Bidder.</p>

Question #	Corresponding RFP Section	Question	Answer
		<p>CONTRACTOR to cure such failure. If the failure is not corrected to the satisfaction of the DEPARTMENT within the time specified, termination shall be effective ^ ten (10) business days from receipt of such notice, established by the receipt returned to the DEPARTMENT. The CONTRACTOR agrees to incur no new obligations nor to claim for any expenses made after receipt of the notification of termination.”</p> <p>We respectfully request the State’s consideration of these edits to ensure that in the unlikely event a CONTRACTOR fails to comply with the terms and conditions of this Contract, they are entitled to a legal right to remedy their default by taking steps to ensure compliance or otherwise, cure the default. Tangentially, this reduces the risks to the State of delayed timelines, lost profits, and wasted time and resources on re-procurement.</p>	
20.	Section 2.2: Important Information (Page 4-5)	<p>Will the State modify Section III(E) on Page 16 of Attachment 8 to the following? “The DEPARTMENT reserves the right to stop the work being performed under this Contract at any time that the DEPARTMENT deems the CONTRACTOR to be unwilling or unable to perform the work in accordance with the Contract to the satisfaction of the DEPARTMENT. In the event of such cessation of work, and where the CONTRACTOR is has-been afforded an opportunity to cure its inability to adequately perform within a reasonable time as specified by the DEPARTMENT, but not to exceed 30 days, and the CONTRACTOR has failed to cure such failure to the satisfaction of the DEPARTMENT, the DEPARTMENT shall have the right to terminate this Contract and to arrange for the completion of the work in such manner as the DEPARTMENT may deem advisable; and if the cost of having the work completed by a replacement CONTRACTOR exceeds the</p>	The Department would consider modifying Section III(E) of the NYS Department of Health Contract in connection with the negotiation of a final Contract with the successful Bidder.

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		<p>amount of the initially awarded Contract, the CONTRACTOR and its surety shall be liable to the DEPARTMENT for any excess cost on account thereof.”</p> <p>These edits seek to tie any failures to the specifications within the Contract, so expectations are clearly understood, and the Contractor can cure such defects efficiently and effectively. Additionally, these edits seek to ensure that in the unlikely event a Contractor defaults, they are entitled to a legal right to remedy their default by taking steps to ensure compliance or otherwise, cure the default.</p>	
21.	Section 2.2: Important Information (Page 4-5)	<p>Will the State modify Section III(F) on Page 16 of Attachment 8 to the following? “This Contract may be canceled at any time for the convenience of by the DEPARTMENT by giving to the CONTRACTOR not less than 30 days written notice that on or after a date therein specified this Contract shall be deemed terminated and canceled.”</p> <p>These edits seek to clarify that should the DEPARTMENT determine it is in their best interests to terminate the Contract for its convenience and without default of the CONTRACTOR, the Contract should be terminated for convenience and not for default.</p>	The Department would consider modifying Section III(F) of the NYS Department of Health Contract as suggested in connection with the negotiation of a final Contract with the successful Bidder.
22.	Section 2.2: Important Information (Page 4-5)	<p>Will the State modify Section III(G)(1) on Page 17 of Attachment 8 to the following? “In the event that the CONTRACTOR, through any cause, fails to perform any of the terms, covenants or promises of this Contract, the DEPARTMENT thereupon shall have the right to terminate this Contract if the CONTRACTOR is unable to cure such failure within ten (10) business days from the date the DEPARTMENT by giving gives notice in writing of the fact and date of such default(s) termination to the CONTRACTOR.”</p>	The Department would consider modifying Section III(G)(1) of the NYS Department of Health Contract in connection with the negotiation of a final Contract with the successful Bidder.

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		<p>We respectfully request the State's consideration of these edits to ensure that in the unlikely event a CONTRACTOR fails to comply with the terms and conditions of this Contract, they are entitled to a legal right to remedy their default by taking steps to ensure compliance or otherwise, cure the default. Tangentially, this reduces the risks to the State of delayed timelines, lost profits, and wasted time and resources on re-procurement.</p>	
23.	Section 2.2: Important Information (Page 4-5)	<p>Will the State modify Section III(G)(2) on Page 17 of Attachment 8 to the following? "If, in the judgment of the DEPARTMENT, the CONTRACTOR acts in such a way which is likely to or does impair or prejudice the interests of the DEPARTMENT, the DEPARTMENT shall thereupon have the right to terminate this Contract if the CONTRACTOR is unable to cure such failure within ten (10) business days from the date the DEPARTMENT by giving notice in writing of the fact and date of such default(s) termination to the CONTRACTOR. The CONTRACTOR shall receive equitable compensation for such services as shall, in the judgment of the State Comptroller, have been satisfactorily performed by the CONTRACTOR prior to the effective date of termination of this Contract, such compensation shall not exceed the total cost incurred or that portion of the total price for the work which the CONTRACTOR was engaged in at the time of termination, subject to audit by the State Comptroller."</p> <p>We respectfully request the State's consideration of these edits to ensure that in the unlikely event a CONTRACTOR's actions impair or prejudice the interests of the Department, they are entitled to a legal right to remedy their default by taking steps to ensure compliance or otherwise, cure the default. Tangentially, this reduces the risks to the State of delayed timelines, lost profits, and wasted time and resources</p>	The Department would not consider making the changes suggested to Section III(G)(2) of the NYS Department of Health Contract.

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		<p>on re-procurement. Lastly, some Contractors exclusively perform on a firm-fixed-price basis furnishing commercial services and accordingly do not have a cost accounting system to calculate costs incurred. The edits to the last sentence of this section seek to offer an alternative method of compensating a Contractor for partial work performed under a firm-fixed-price type effort.</p>	
24.	Section 2.2: Important Information (Page 4-5)	<p>Will the State modify the following requirement under Section IV(B)(3) on Pages 18 – 19 of Attachment 8 accordingly? “Unless otherwise agreed, policies directly related to this Contract shall be written so as to include a provision that the policy will not be canceled, materially changed, or not renewed without at least 30 days prior written notice except for non-payment as required by law to the DEPARTMENT at the address specified above in this paragraph.”</p> <p>These revisions seek to clarify that Contractors will notify the Department should any policies directly related to this Contract be cancelled, materially changed, or not renewed.</p>	The Department does not consider the suggested change to Section IV(B)(3) to be necessary.
25.	Section 2.2: Important Information (Page 4-5)	<p>Will the State modify the following requirement under Section IV(3) on Page 19 of Attachment 8 accordingly? “In addition, if required by the DEPARTMENT, the CONTRACTOR shall deliver to the DEPARTMENT within forty-five (45) days of such request a copy of any or all policies of insurance certificates not previously provided, certified by the insurance carrier as true and complete.”</p> <p>Most Contractors consider their insurance policies to be sensitive and confidential, and do not share such policies with third parties.</p>	The Department is unable to agree to the modification suggested to Section IV(B)(3) of the NYS Department of Health Contract.

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26.	Section 2.2: Important Information (Page 4-5)	<p>Will the State modify the first sentence of Section IV(B)(5) on Page 19 of Attachment 8 accordingly? “At least five (5) business days two weeks prior to the expiration of any policy required by this Contract, evidence of renewal or replacement policies of insurance with terms no less favorable to the DEPARTMENT than the expiring policies shall be delivered to the DEPARTMENT in the manner required for service of notice in subsection B.3.”</p> <p>It is the Contractor’s experience that updated insurance certificates are historically not received until one week prior to the renewal period and respectfully request the Department’s further consideration of these edits.</p>	The Department is unable to agree to the change suggested to Section IV(B)(5).
27.	Section 2.2: Important Information (Page 4-5)	<p>Will the State modify the first sentence of Section IV(C)(4) on Page 22 of Attachment 8 accordingly? “Commercial Auto Liability insurance covering liability arising out of the use of any motor vehicle in connection with the work, including owned, leased, hired and non-owned vehicles bearing or, under the circumstances under which they are being used, required by the Motor Vehicle Laws of the State of New York to bear, license plates.”</p> <p>The edits seek to clarify that owned automobiles are not applicable to the scope of work to be provided under this RFP and to not confuse Contractor-owned automobiles with Contractor personnel-owned automobiles.</p>	The Department is unable to agree to the change requested in Section IV(C)(4).
28.	Section 2.2: Important Information (Page 4-5)	Will the State modify Section III(C) on Page 16 of Attachment 8 to the following? “This Contract may be terminated by the DEPARTMENT for cause upon the failure of the CONTRACTOR to comply with the terms and conditions of this Contract, including the attachments hereto, provided that the DEPARTMENT shall give the CONTRACTOR written	Please see the Response to Question #19.

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		<p>notice via registered or certified mail, return receipt requested, or shall deliver same by hand-receiving CONTRACTOR'S receipt therefore, such written notice to specify the CONTRACTOR'S failure and the termination of this Contract and allow ten (10) business days for the CONTRACTOR to cure such failure. If such failure is not corrected to the satisfaction of the Department, termination shall be effective at the end of the ten (10) business days from receipt of such notice, established by the receipt returned to the DEPARTMENT. The CONTRACTOR agrees to incur no new obligations nor to claim for any expenses made after receipt of the notification of termination."</p> <p>We respectfully request the State's consideration of these edits to ensure that in the unlikely event a CONTRACTOR fails to comply with the terms and conditions of this Contract, they are entitled to a legal right to remedy their default by taking steps to ensure compliance or otherwise, cure the default. Tangentially, this reduces the risks to the State of delayed timelines, lost profits, and wasted time and resources on re-procurement.</p>	
29.	Section 2.2: Important Information (Page 4-5)	<p>Will the State modify Section III(E) on Page 16 of Attachment 8 to the following? "The DEPARTMENT reserves the right to stop the work being performed under this Contract at any time that the DEPARTMENT deems the CONTRACTOR to be unwilling or unable to perform the work in accordance with the Contract to the satisfaction of the DEPARTMENT. In the event of such cessation of work, and where the CONTRACTOR is has been afforded an opportunity to cure its inability to adequately perform within a reasonable time as specified by the DEPARTMENT, but not to exceed 30 days, and the CONTRACTOR has failed to remedy such defect of performance to the satisfaction of the Department, the DEPARTMENT shall have the right to terminate this Contract</p>	Please see the Response to Question #20.

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		<p>and to arrange for the completion of the work in such manner as the DEPARTMENT may deem advisable; and if the cost of having the work completed by a replacement CONTRACTOR exceeds the amount of the initially awarded Contract, the CONTRACTOR and its surety shall be liable to the DEPARTMENT for any excess cost on account thereof.”</p> <p>These edits seek to tie any failures to the specifications within the Contract, so expectations are clearly understood, and the Contractor can cure such defects efficiently and effectively. Additionally, these edits seek to ensure that in the unlikely event a Contractor defaults, they are entitled to a legal right to remedy their default by taking steps to ensure compliance or otherwise, cure the default.</p>	
30.	Section 2.2: Important Information (Page 4-5)	<p>Will the State modify the first two sentences of Section IX(E)(1) on Page 28 of Attachment 8 accordingly? “Any materials, articles, papers, etc., first developed by the CONTRACTOR under or in the course of performing this Contract shall contain the following, or similar acknowledgment: “Funded by the New York State Department of Health.” Any such materials must be reviewed and approved by the DEPARTMENT for conformity with the policies and guidelines of the DEPARTMENT prior to dissemination and/or publication without attribution to the CONTRACTOR.”</p> <p>Contractors may propose proprietary tools and frameworks to perform services under this Contract that have not been funded by the New York State Department of Health. The revisions seek to ensure that the Contractor maintains ownership of its proprietary tools, which derive independent economic value for its organization and which the commercial viability of such intellectual property or trade secret is</p>	The Department would consider modifications to Section IX(E)(1) to address the concerns expressed in this Question in connection with the negotiation of a final Contract with the successful Bidder.

Question #	Corresponding RFP Section	Question	Answer
		<p>dependent on not being generally known to the public or third parties. Additionally, to promote true neutrality on issues, provide an environment for uncensored guidance, and better empower the Department, the last edits seek to request that the Department not attribute the Contractor with the work outside of its organization.</p>	
31.	Section 2.2: Important Information (Page 4-5)	<p>Will the State modify Section IX(E)(3) on Page 29 of Attachment 8 accordingly? “Except for CONTRACTOR intellectual property or trade secrets embedded therein, nNo report, document or other data produced in whole or in part with the funds provided under this Contract may be copyrighted by the CONTRACTOR or any of its employees, nor shall any notice of copyright be registered by the CONTRACTOR or any of its employees in connection with any report, document or other data developed pursuant to this Contract, without express written permission of the DEPARTMENT.”</p> <p>Contractors may propose proprietary tools and frameworks to perform services under this Contract that have not been funded/will not be funded by the New York State Department of Health. The revisions seek to ensure that the Contractor maintains ownership of such proprietary tools and the rights to copyright such report, document, or other data.</p>	The Department would not consider modifying Section IX(E)(3) as suggested, but would be willing to consider concerns regarding the protection of the intellectual property rights of the successful Bidder in works created by Bidder prior to and outside the work performed under the Contract entered into pursuant to this RFP.
32.	Section 2.2: Important Information (Page 4-5)	<p>Will the State modify Section IX(E)(4) on Page 29 of Attachment 8 accordingly? “Except for CONTRACTOR intellectual property or trade secrets embedded therein, aAll reports, data sheets, documents, etc. generated under this Contract shall be the sole and exclusive property of the DEPARTMENT. Except for CONTRACTOR intellectual property or trade secrets embedded therein, tThe CONTRACTOR shall have no right to disclose or use any of</p>	Please see the response to Questions # 30 and 31.

Question #	Corresponding RFP Section	Question	Answer
		<p>such material and documentation for any purpose whatsoever, without the prior written approval of the DEPARTMENT or its authorized agents.”</p> <p>Contractors may propose proprietary tools and frameworks to perform services under this Contract. The revisions seek to ensure that the Contractor maintains ownership of its proprietary tools, which derive independent economic value for its organization and which the commercial viability of such intellectual property or trade secret is dependent on not being generally known to the public or third parties.</p>	
33.	Section 2.2: Important Information (Page 4-5	<p>Will the State modify Section IX(E)(5) on Page 29 of Attachment 8 accordingly? “This is a “Work for Hire” Contract. Except for CONTRACTOR intellectual property, trade secrets, and independently financed source code and software, tThe DEPARTMENT will be the sole owner of all source code and any software which is developed for use in any application software provided to the DEPARTMENT as a part of this Contract.”</p> <p>We removed the “work for hire” distinction because this distinction generally would not apply to the type of work Contractors will perform under this Contract (it does not generally fall under the 9 types of works that are considered subject to copyright by a contractor (non-employee)). Moreover, a work made for hire distinction could potentially run counter to the data rights asserted by a Contractor for its own intellectual property, trade secrets, source code, and software that are used to perform the work hereunder.</p>	The Department will not be able to consider the changes to Section IX(E)(5) suggested in this Question.
34.	Section 2.2: Important	Will the State add the following language in green to Section IX(E) on Pages 28 – 29 of Attachment 8? “The CONTRACTOR retains ownership of all concepts, know-how,	The Department could not agree to add the suggested language to Section IX(E), but would be willing to discuss with the successful Bidder

Question #	Corresponding RFP Section	Question	Answer
	Information (Page 4-5)	tools, questionnaires and assessments, modules, courses, frameworks, software, algorithms, databases, content, models, and industry perspectives developed or enhanced outside of or in connection with this Contract (the “CONTRACTOR IP”), it being understood that none of the CONTRACTOR IP will contain the DEPARTMENT’S confidential information. To the extent the work products furnished by the CONTRACTOR pursuant to this Contract (the “Work Products”) include any embedded CONTRACTOR IP, the CONTRACTOR hereby grants the DEPARTMENT a non-exclusive, non-transferable, non-sublicensable, worldwide, royalty-free license to use and copy the CONTRACTOR IP solely as part of the Work Products and subject to the limitations of applicable law. The DEPARTMENT agrees that, without the CONTRACTOR’s prior written permission, it will not, or permit any third party to (a) access, copy or reverse engineer the Work Products or CONTRACTOR IP, or (b) remove or circumvent security or technological safeguards, including notices, digital protection mechanisms, metadata, watermarks, or disclaimers provided with the Work Products or CONTRACTOR IP.”	appropriate protection for the CONTRACTOR’s intellectual property rights in work created prior to and outside the performance of the services under the final Contract entered into pursuant to this RFP.
35.		Will the State update the heading of Section IX(J) from “Indemnification” to “Indemnification and Limitation of Liability,” and add the following language in green to Section IX(J) on Page 31 of Attachment 8 accordingly? “The CONTRACTOR’S services performed under this Contract shall not be deemed medical, investment, legal, tax, accounting or other regulated advice, such as professional advice normally provided by licensed or certified practitioners, and do not constitute policy advice. The CONTRACTOR does not supplant the DEPARTMENT’S management or other decision-making bodies and does not guarantee results. The DEPARTMENT remains solely responsible for its decisions,	The Department would not be willing to change Section IX(J) as suggested, but could consider addressing the concerns raised in this Question in connection with the negotiation of a final Contract with the successful Bidder.

Question #	Corresponding RFP Section	Question	Answer
		<p>actions, use of the deliverables furnished hereunder and compliance with applicable laws, rules and regulations.”</p> <p>The above language seeks to clarify that the awarded Contractor will provide strategic support and advice, but not medical, investment, legal, tax, accounting or other regulated advice, such as professional advice normally provided by licensed or certified practitioners.</p>	
36.	Section 2.2: Important Information (Page 4-5)	<p>Will the State update the heading of Section IX(J) from “Indemnification” to “Indemnification and Limitation of Liability,” and add the following language in green to Section IX(J) on Page 31 of Attachment 8 accordingly? “In no event shall the CONTRACTOR’S liability to the DEPARTMENT in connection with this Contract exceed two times the fees received by the CONTRACTOR from the DEPARTMENT in connection with this Contract. Neither party will be liable for any lost profits or other indirect, consequential, incidental, punitive or special damages.”</p> <p>The above edits include a limitation of liability. The industry standard is to fix a Contractor’s liability at the benefit it receives, and we have offered two times above industry standard. Contractors remain open to proposed variations from the Department.</p>	The Department would not consider adding the suggested limitation of liability to Section IX(J).
37.	Section 2.2: Important Information (Page 4-5) Section 2.2: Important Information (Page 4-5)	<p>Will the State add the following language in green to Section IX(K) on Page 31 of Attachment 8? “The CONTRACTOR shall not indemnify and hold the DEPARTMENT harmless for infringement of a United States Letter Patent, or of any copyright, trademark, trade secret or other third party proprietary right resulting from (1) the use of any art, machine, or composition of matter on said Products provided by the DEPARTMENT; (2) Products provided pursuant to the</p>	The Department is not able to consider adding the suggested language to Section IX(K).

Question #	Corresponding RFP Section	Question	Answer
		<p>DEPARTMENT'S designs, drawings or manufacturing specifications; (3) Products used other than for their ordinary purpose; (4) claims of infringement or violation resulting from combining any Products furnished under this Contract with any article not furnished by the CONTRACTOR; (5) use of other than the latest version of the Product released by the CONTRACTOR; or (6) any modification of the Products other than a modification by the CONTRACTOR."</p> <p>These edits seek to ensure a Contractor's infringement indemnification obligations are limited to their performance of the Contract, and do not hold them responsible for events outside of their control.</p>	
38.	Section 2.2: Important Information (Page 4-5)	<p>Per Appendix M, Section III(D)(3) on Page 37 of Attachment 8, Contractors are required to complete a "Workforce Utilization Report" in accordance with Executive Order #162. Some Contractors exclusively offer commercial services on a firm-fixed-price basis. These commercial services are outcome-oriented and are priced in the context of a highly competitive market; they are neither based on a cost build-up or the application of indirect rates to a direct contractor salary. Given this approach, these Contractors do not have an accounting system that allocates costs to a specific contract or person and therefore, such Contractors cannot accurately calculate the amount to be paid to its personnel for their performance under a contract. For commercial Contractors, will the State remain open to discussing alternative reporting for the Workforce Utilization Report?</p>	<p>The Department is required to comply with Executive Orders and related statutes. The Bureau of Contracts and the Division of Legal Affairs of the Department are available and willing to assist the Department's Contractors in fulfilling their obligations, including the requirements of Appendix M, Section III(D)(3).</p>
39.	Section 2.2: Important Information (Page 4-5)	<p>Will the State modify the first sentence under Section E of Appendix F of Attachment 8 to the following? "Unless otherwise provided by General Business Law § 899-aa, State Technology Law § 208, General Business Law § 899-bb, or</p>	<p>The Department is unable to agree to modifications to the Standard Clauses for NYS Contracts. In addition, the suggested modification does not change the substance of the existing provision.</p>

Question #	Corresponding RFP Section	Question	Answer
		<p>other applicable law, in the event of a Data Breach, the CONTRACTOR shall:"</p> <p>These revisions seek to reference the applicable Data Security Laws in the "Standard Clauses for NYS Contracts."</p>	
40.	Section 2.2: Important Information (Page 4-5)	<p>Will the State consider adding the following additional provisions to the New York State Department of Health Contract located within Appendix X of Attachment 8:</p> <p>(1) <u>WAIVER OF JURY TRIAL</u> – IN THE EVENT OF A DISPUTE BETWEEN US ARISING OUT OF OR RELATING TO THIS CONTRACT, THE PARTIES EACH AGREE TO WAIVE AND NOT DEMAND A TRIAL BY JURY.</p> <p>(2) <u>Provision of Information and Assistance</u> – CONTRACTOR shall use all information and data supplied by or on behalf of the State without having independently verified the accuracy or completeness of it. If any documentation or information supplied to CONTRACTOR at any time is incomplete, inaccurate or not up-to-date, or its provision is unreasonably delayed, or if adequate access to (and being able to spend time with) employees of the State and other individuals (including third parties such as the State's other advisers) is not provided, then CONTRACTOR will not be responsible for any delays or liability arising therefrom, and will be entitled to charge the State in respect of any resulting additional work actually carried out.</p> <p>(3) <u>Personal Information</u> – Each party and its respective affiliates will comply with their respective obligations arising from data protection and privacy laws in effect</p>	The Department could consider additional provisions in connection with the negotiation of a final Contract with the successful Bidder.

Question #	Corresponding RFP Section	Question	Answer
		<p>from time to time to the extent applicable to this Contract and the services. This includes, without limitation, (i) the obligation, if any, of the State or its affiliates, to obtain any required consent(s) in respect of the transfer of information to CONTRACTOR by the State or any third party relating to an identified or identifiable individual that is subject to applicable data protection, privacy or other similar laws (“Personal Information”), (ii) any obligation with respect to the creation or collection of additional Personal Information by CONTRACTOR, and (iii) any obligation with respect to the use, disclosure, and transfer by CONTRACTOR of Personal Information as necessary to perform the services or as expressly permitted under this CONTRACTOR. Subject to CONTRACTOR’s right to use information for data analytics purposes as set forth herein, any use or processing by CONTRACTOR of Personal Information supplied by or on the State’s behalf in connection with the services shall be done solely on the State’s behalf. CONTRACTOR confirms that it has taken appropriate technical and organizational measures intended to prevent the unauthorized or unlawful processing of Personal Information and the accidental loss or destruction of, or damage to, Personal Information, including the utilization of commercially available and industry standard encryption technologies for Personal Information that is a) transmitted over public networks (i.e., the Internet) or when transmitted wirelessly or b) at rest or stored on portable devices or removable media (i.e., laptop computers, CD/DVD, USB drives, back-up tapes). This encryption standard supersedes any conflicting provision in an Attachment.</p>	

Question #	Corresponding RFP Section	Question	Answer
		(4) Advice on Legal Matters – CONTRACTOR is not engaged in the practice of law and the services provided hereunder, which may include commenting on legal issues or drafting documents which could constitute legal advice, do not constitute and are not a substitute, for legal advice.	
41.	Section 3.2: Preferred Qualifications (Page 5)	This section states that preference is given to bidders with experience with NYS’ 1115 waiver and the 1915(c) waiver. Please provide the names of the consulting firms who have worked with NYS on these waivers.	Please see response to Question #1.
42.	Section 4.1: Tasks/Deliverables , Subsection A, Bullet 1.1.a (Page 6)	Regarding Project Manager: Does the statement that the Project Manager must be knowledgeable about the NY 1115 waiver and the 1915(c) waiver mean that the Project Manager must have worked for the State or as a vendor/contractor to the State? Is the understanding of the waiver program obtained through research and analysis to support other states in similar activities sufficient for this Project Manager role?	There is no reference to Project Manager in the RFP, though it does outline a “Contract Manager”, therefore in regards to a Contract Manager, no, prior employment for NYS or as a subcontractor of NYS is not a requirement for the contract manager. However, the contract manager’s knowledgeable experience and/or research must pertain to the NY 1115 waiver and the 1915(c) waiver.
43.	Section 4.1: Tasks/Deliverables , Subsection A, Bullet 4.6 (Page 8)	<p>This section states “evaluate various State programs and provide feedback on how they will be impacted, what will need to change and what will need to be addressed from the implementation of identified projects.”</p> <p>It is our experience that 1115 and 1915(c) programs can impact numerous programs within the state. Can you provide more information so we can better determine the scope of this activity?</p>	<p>The RFP’s preferred qualifications state that the bidders that demonstrate experience with NYS’s 1115 and 1915(c) Waiver will be preferred. This experience together with research will enable the vendor to perform this task in relation to the different projects outlined in the RFP.</p> <p>The vendor’s work product needs to ensure that there is consideration of additional NYS services such as but not limited to: already within a State Plan Amendment, impact to Medicaid Managed Care model contract, billing practices, and or Medicaid updates</p>
44.	Section 4.1: Tasks/Deliverables	DOH requires the contractor to agree to the following: “Attest that no aspect of their performance under this Agreement will	It is expected that the vendor will act as a consultant to DOH and not as a quasi DOH employee requiring state resources to complete the scope of work. As

Question #	Corresponding RFP Section	Question	Answer
	Subsection A, Bullet 1.2 (Page 7)	be contingent upon State personnel or the availability of State resources". Please clarify the intent of this requirement.	an example, the successful vendor would not require state resources such as office space, equipment, etc. to complete the tasks outlined in the RFP.
45.	Section 4.1: Tasks/Deliverables Subsection A, Bullet 1.2 (Page 7)	"Attest that no aspect of their performance under this Agreement will be contingent upon state personnel or the availability of State resources." - Is this meant to indicate that the vendor is solely responsible for the activities outlined and there should not be any assumption about the availability of state staff time?	Please see answer to Question #44
46.	Section 4.1: Tasks/Deliverables Subsection A, Bullet 1.2 (Page 7)	This paragraph requires the Contractor to attest that no aspect of the Contract Manager performance will be contingent upon State personnel or the availability of State resources. Please expand upon the State's expectation of the Contract Manager as it relates to this attestation. A contractor is typically not a decision maker for the State and must rely on State guidance and decisions, especially as it relates to interactions with CMS. Will the State be reviewing work produced by the Contractor?	Please see answer to Question #44. Additionally, the State will have primary oversight of the vendor and will continue to be the primary decision maker for all work including interactions with CMS.
47.	Section 4.1: Tasks/Deliverable, Subsection A, Bullet 4.7 (Page 8)	This section states: "Assist with the analysis of the fiscal impact and provide projections of the costs of identified projects, inclusive of reimbursement rate development, State budget impact and specific program service projections." This request can be very broad. Are you seeking the services of an actuary for any of these tasks? Please provide information regarding what our analysis would include.	No, the Department is not seeking actuary services. In order to assist with these projects, the vendor would need to assist with both financial and programmatic aspects of these projects. This would include analysis of the fiscal impact and provide projections of the costs of identified projects, inclusive of reimbursement rate development, State budget impact and specific program service projections.
48.	Section 4.1: Tasks/Deliverable, Subsection A, Bullet 4.7 (Page 8)	Please confirm that the scope includes the development of reimbursement rates. If so, please clarify what types of reimbursement rates are to be developed under the scope.	Yes, per the RFP, the vendor would be expected to assist with the development of reimbursement rates for projects within the RFP, as needed.
49.	Section 4.1: Tasks/Deliverable,	Will CMS be a signatory to the contract (there are a number of activities/ sections devoted to CMS)?	No, the contract will be signed by DOH and the vendor who is awarded the contract.

Question #	Corresponding RFP Section	Question	Answer
	Subsection A, Bullet 2 (Page 7)		
50.	Section 4.1: Tasks/Deliverable, Subsection A, Bullet 2 (Page 7)	Is there a main CMS contact in addition to the main NYSDOH contact?	No, only DOH staff will be contacts for this contract.
51.	Section 4.1: Tasks/Deliverable, Subsection A, Bullet 3 (Page 7)	Has NYSDOH identified resources yet to drive this effort? How many? What is their background?	DOH will oversee the scope of work outlined in the RFP; however, the successful vendor will be responsible for developing its own team to accomplish this work.
52.	Section 4.1: Tasks/Deliverable, Subsection B (Page 8)	Does the State have an anticipated timeline for the program phases (program design and authorities, implementation support, monitoring and oversight) for each of the three programs identified in this paragraph? What implementation phase is the State currently in for each of these programs?	Given changing programmatic, State need, and CMS requirements, timeframes are adjustable. These projects are operating simultaneously, and priorities can change, therefore no timeline or timeframe will be given out.
53.	Section 4.1: Tasks/Deliverable, Subsection B, Bullet 1.1.b (Page 9)	This section states "Participate in workgroups and other public forums." Will the contractor be required to schedule and lead these workgroups and forums? Are there deliverables associated with these tasks?	No, the vendor will not schedule or lead workgroups, only participate as necessary. Please see Section 4.0 of the RFP.
54.	Section 4.1: Tasks/Deliverable, Subsection B, Bullet 1.2 (Page 9)	This section states "authorities." Will the contractor be expected to facilitate the public notice/comment process?	Per the RFP, the contractor will be expected to review public comments received in relation to the project and prepare: Summaries and analyses of the comments; Public comment response document; and Produce draft responses to deficiencies identified in public comments, as needed
55.	Section 4.1: Tasks/Deliverable, Subsection B, Phase 1 (Page 9)	What is the basis for estimated hours for this phase? Does the state have a preliminary budget estimate?	All project phases have associated, estimated hours allocated to them. However, these are just estimates. Actual hours and duration of this phase is dependent upon the outcome of CMS approvals/negotiations and State need.

Question #	Corresponding RFP Section	Question	Answer
			Regarding the budget, please see answer to Question #2.
56.	Section 4.1: Tasks/Deliverable, Subsection B, Phase 2 (Page 10)	What is the basis for estimated hours for this phase? Does the state have a preliminary budget estimate?	Please see answer to Question #55.
57.	Section 4.1: Tasks/Deliverables, Subsection B, Bullet 2.2.a and Bullet 2.2 (Page 11)	<p>In #3 of this section, the requirement is to “Evaluate the related state programs.” Please provide more detail about the type of work required related to “evaluate.”</p> <p>Also, in b.2), please clarify what “future planning” may entail. We understand the tasks you have described, e.g., Transitioning HCBS population to Managed Care, but cannot determine what level of assistance you require with “future planning.” For other phases and tasks, you have provided estimated hours. Can you provide hours for this activity as well?</p>	<p>Evaluation of related state programs will encompass applying standard state program research and analysis methods and techniques for the identified programs to provide implantation support as needed</p> <p>Additionally, future planning entails identifying any warranted changes that may arise from implementation and design changes for supporting managed care programs.</p> <p>It is estimated that the contractor may provide approximately 1,000 hours, of consulting work during Phase 2: Implementation Support.</p>
58.	Section 4.1: Tasks/Deliverable, Subsection B, Bullet 2.2.a (Page 11)	<p>Can the State provide additional description of sub-populations they may have in mind for the following request?</p> <p>“Once developed, provide implementation support related to the transition of certain Medicaid subpopulations to the managed care delivery system.”</p>	These populations are yet to be determined.
59.	Section 4.1: Tasks/Deliverable, Subsection B, Bullet 3.3 (Page 11)	Please confirm that “update Technical Assistance documents detailed in Section 4.1.B.1 and 4.1.B.2” is referring to the training materials related to the SPA, 1915(c), and 1115 referenced on page 10.	Yes, the Technical Assistance documents detailed in Section 4.1.B.1 and 4.1.B.2 is referring to the training materials related to the SPA, 1915(c), and 1115 referenced on page 10.

Question #	Corresponding RFP Section	Question	Answer
60.	Section 4.1: Tasks/Deliverable, Subsection B, Bullet 3.8 (Page 12)	<p>Please clarify the dates listed for the draft amendment to the 1115 waiver for implementation of mandatory enrollment and the Transition Plan for 1115 Waiver. The RFP references 2020.</p> <p>Have these dates been delayed? If so, please clarify the updated dates.</p>	Yes, some of the dates were delayed and now are 2021. The State is in process of updating and amending the 1115 for 2022.
61.	Section 4.2: Staffing, Subsection D, Bullet 1 (Page 13)	<p>Will the State accept experience working in other states on similar programs (e.g., 1915(c) Waivers and HCBS programs) as meeting the below requirements:</p> <p>b. Current Children’s 1915(c) Waivers and HCBS in NYS c. Comparable State programs in and out of NYS d. Comparable State implementation procedures in and out of NYS e. NYS Health Homes Program g. Proposed OPWDD 1915a/1115 Waiver?</p>	<p>Experience in NYS is the only acceptable experience where specifically mentioned and for specific positions, such as the contract manager.</p> <p>Where it indicates in and out of NYS, other state experience would be acceptable.</p>
62.	Section 4.2: Staffing, Subsection D, Bullet 3 (Page 14)	<p>Can the State confirm that the required staffing experience below means that bidders must have direct experience working in NY State to design and implement special population services for the below requirements?</p> <p>a. Assisting with the implementation of OPWDD system transformation, Waivers, services, and programs</p> <p>b. Operational understanding of the development of the CCO/HH model and interaction with OPWDD HCBS waiver</p>	See response to Question #61.
63.	Section 4.2: Staffing, Subsection D, Bullet 3 (Page 14)	Where DOH prefers that prime contractors and/or sub-contractors have experience with “OPWDD system transformation, waivers, services, and programs” is this restricted to experience serving as a contractor to New York State, or would experience working with providers of care, services, and supports or with other NYS stakeholders qualify as equally relevant?	See response to Question #61.

Question #	Corresponding RFP Section	Question	Answer
64.	Section 4.2: Staffing, Subsection D, Bullet 3 (Page 14)	<p>Will the State accept experience working in other states on similar programs (e.g., care coordination organizations and health homes) as meeting the below requirements?</p> <p>a. Assisting with the implementation of OPWDD system transformation, Waivers, services, and programs b. Operational understanding of the development of the CCO/HH model and interaction with OPWDD HCBS waiver</p>	See response to Question #61.
65.	Section 4.2: Staffing, Subsection D, Bullet 3 (Page 14)	Where DOH prefers that prime contractors and/or sub-contractors have experience with “Proposed Children’s Medicaid System Transformations; Current Children’s 1915© Waivers and HCBS in NYS; and/or Proposed Children’s 1915(c)/1115 Waiver” is this restricted to experience serving as a contractor to New York State, or would experience working with providers of care, services, and supports or with other NYS stakeholders qualify as equally relevant?	All work within NYS on the mentioned programs/waivers would be relevant.
66.	Section 4.2: Staffing, Subsection E (Page 14)	Are State staff currently working in the office or remotely? If remote, is there an estimate on returning to the office, as we anticipate this timing may align with future travel needs?	<p>This question is not relevant to this procurement.</p> <p>Please refer to Question #44.</p>
67.	Section 4.2: Staffing, Subsection F (Page 14)	Please confirm whether resumes are required to be submitted with the proposal, or within 30 days of award by the successful contractor only. If with the proposal, are there certain positions for resumes to be submitted (e.g., Contract Manager, others?)	The Contractor will be required to submit resumes 30 days from written notification of contract approval from OSC.
68.	Section 5.4: Payment, Subsection A (Page 18)	Will the State modify Part (A) of Section 5.4 on RFP Page 18 to the following? “The Contractor will be paid according to the agreed upon fixed price for the successful completion of each phase/task (or sub-deliverable) or the hourly bill rates proposed for each phase/task of the contract as provided in the Contractor’s Attachment B, Cost Proposal;”	<p>No, the state will not be modifying the RFP at this request.</p> <p>The successful contractor would submit an invoice for the number of hours spent working on specific tasks or deliverables at the rate identified in the resulting contract.</p>

Question #	Corresponding RFP Section	Question	Answer
		<p>It is understood that all proposed fixed prices must be developed using an estimated hourly buildup, however billing on an hourly or time and materials type basis is not customary to some Contractors' commercial business practices. Such Contractors exclusively perform on a firm-fixed-price basis and do not invoice based on actual hours worked. Rather, they bill at an agreed upon price that is not subject to any adjustment based on the Contractor's cost or time experience in performing the work. NY agencies have regularly benefited from expanding pricing requirements to also allow for fixed price bids as it offers more cost effective options, transfers potential schedule and cost risk to the bidder, incentivizes bidder efficiency, eases the client's project management burden, and ensures maximized competition and an inclusive procurement open to all otherwise qualified bidders.</p>	
69.	Section 5.4: Payment, Subsection B (Page 18)	<p>Will the State consider adding the following language in green to Part (B) of Section 5.4 on RFP Page 18? "To receive payment for work identified in Section 4.1.B.1-4, the Contractor will submit a monthly invoice for services rendered, which includes a brief description of each of the services provided, actual number of hours devoted to the service, the hourly rate for the phase for work was performed within, and total costs for each service during the billing period, in addition to the monthly progress report identified in Section 4.3. In order for Contractors performing on a firm-fixed-price basis to receive payment for work identified in Section 4.1.B.1-4, the Contractor will submit a monthly invoice for services rendered, which includes a brief description of each of the services provided, and the total price for each service during the billing period, in addition to the monthly progress report identified in Section 4.3."</p>	See response to Question #68.

Question #	Corresponding RFP Section	Question	Answer
70.	Section 5.4: Payment, Subsection C, Bullet 1 (Page 18)	<p>Will the State add the following language to Part (C)(1) of Section 5.4 on RFP Page 18? “In order for Contractors performing on a firm-fixed-price basis to receive payment for services provided as a result of each Task Order entered into as identified in Section 4.1.B.5, the Contractor will submit monthly invoices that include:</p> <ul style="list-style-type: none"> • An identification of the task order number; and • A summary of tasks/milestones completed under the specific Task Order.” 	See response to Question #68.
71.	Section 5.4: Payment, Subsection E	<p>Will the State add the following language in green to Part (E) of Section 5.4 on RFP Page 18? “The Contractor will not be reimbursed for any costs outside of the agreed upon firm-fixed-price or hourly rates provided in their Attachment B, Cost Proposal, excluding travel. Payment shall be contingent upon the full and proper performance to the satisfaction of the Department, by the Contractor, of activities specified in the Agreement, approved Task Orders, and RFP;”</p>	See response to Question #68.
72.	Section 5.5: Minority & Women-Owned Business Enterprise Requirements (Page 19)	<p>Will the State consider a bidder contracting with a firm that is in process of becoming certified as a NY State MWBE as meeting the MWBE participation requirement if that firm can demonstrate submission of a NY State MWBE application?</p>	<p>In order to meet the NYS MWBE goal, the bidding contractor would be required to be a certified MWBE at the time of the contract start date or they would need to subcontract with one or more current certified MWBEs.</p>
73.	Section 5.5: Minority & Women-Owned Business Enterprise Requirements (Page 19)	<p>Will the State accept the prime contractor being a Women-Owned Business Enterprise with 100% of the contract being fulfilled by Women-Owned Business Enterprises instead of 15% being fulfilled by Minority-Owned Business Enterprises and 15% being fulfilled by Women-Owned Business Enterprises?</p>	Yes, the goal is 30% total.
74.	Section 5.5: Minority & Women-	<p>If a bidder proposes less than the goal of 15% for MBE and/or less than the goal of 15% of WBE, will it lead to dis-</p>	<p>No, this will not result in a disqualification. Though, if the bidder proposes less than a 30% MWBE goal,</p>

Question #	Corresponding RFP Section	Question	Answer
	Owned Business Enterprise Requirements (Page 19)	qualification of the bidder's proposal or reduced scoring of the proposal?	they must submit a MWBE waiver which is subject to approval of Department.
75.	Section 5.9 Subcontracting (Page 21)	Please confirm whether the Vendor Responsibility Questionnaire is required to be submitted with the proposal, or upon selection of the selected contractor?	The bidder must submit an Attachment 3 (https://www.health.ny.gov/funding/forms/attachment_3.pdf) with their proposal which certifies that the bidder has an online, hard copy attached, or exemption status.
76.	Section 5.13: State Finance Law Consultant Disclosure Provisions (Pages 23-24)	Contractors are required to complete a "State Consultant Services Form A, Contractor's Planned Employment From Contract Start Date through End of Contract Term" in order to be eligible for a contract. Some Contractors exclusively offer commercial services on a firm-fixed-price basis. These commercial services are outcome-oriented and are not based on costs incurred or time expended. Given this approach, these Contractors do not have an accounting system that allocates costs to a specific contract or person and therefore, such Contractors cannot accurately calculate the amount to be paid to its personnel for their performance under a contract. For commercial Contractors, will the State waive the requirement to report the "Number of Hours to be Worked" and remain open to discussing alternative reporting for the "Amount Payable under the Contract" for each employment category?	The Department and the successful Bidder are obligated to comply with the State Finance Law. These obligations are monitored, audited and enforced by the New York State Department of Labor.
77.	Section 5.13: State Finance Law Consultant Disclosure Provisions (Pages 23-24)	Contractors are required to complete a "State Consultant Services Form B, Contractor's Annual Employment Report" for each state fiscal year included in the resulting contract. Some Contractors exclusively offer commercial services on a firm-fixed-price basis. These commercial services are outcome-oriented and are not based on costs incurred or time expended. Given this approach, these Contractors do not have an accounting system that allocates costs to a specific	Please see the Response to Question #76.

Question #	Corresponding RFP Section	Question	Answer
		contract or person and therefore, such Contractors cannot accurately calculate the amount paid to its personnel for their performance under a contract. For commercial Contractors, will the State waive the requirement to report the “Number of Hours Worked” and remain open to discussing alternative reporting for the “Amount Payable under the Contract” for each employment category?	
78.	Section 5.21: Intellectual Property	<p>Will the State make the following modifications to Section 5.21 on RFP Page 25? “Any work product created pursuant to this agreement and any subcontract and paid for in full by the New York State Department of Health (the “Work Product”) 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 Wwork Pproduct-, save that the Contractor retains ownership of all concepts, know-how, tools, questionnaires and assessments, modules, courses, frameworks, software, algorithms, databases, content, models, and industry perspectives developed or enhanced outside of or in connection with this Agreement (the “Contractor IP”), it being understood that none of the Contractor IP will contain the State’s confidential information. To the extent the Work Products include any embedded Contractor IP, the Contractor hereby grants the New York State Department of Health a non-exclusive, non-transferable, non-sublicensable, worldwide, royalty-free license to use and copy the Contractor IP solely as part of the Work Products and subject to the limitations of applicable law. The New York State Department of Health agrees that, without the Contractor’s prior written permission, it will not, or permit any third party to (a) access, copy or reverse engineer the Work Products or Contractor IP, or (b) remove or circumvent security or technological safeguards, including notices, digital protection mechanisms, metadata,</p>	<p>The Department cannot make the suggested modifications to Section 5.21 of the RFP; however, the Department would be willing to discuss with the successful Bidder appropriate protection for CONTRACTOR’s intellectual property rights in work created prior to and outside the performance of the services under the final Contract entered into pursuant to this RFP.</p>

Question #	Corresponding RFP Section	Question	Answer
		<p>watermarks, or disclaimers provided with the Work Products or Contractor IP.”</p> <p>Contractors may propose proprietary tools and frameworks to perform services under this Agreement. The revisions seek to ensure that the Contractor maintains ownership of its proprietary tools, which derive independent economic value for its organization and which the commercial viability of such intellectual property or trade secret is dependent on not being generally known to the public or third parties.</p>	
79.	Section 6.3: Cost Proposal	<p>Will the State modify the last paragraph of Section 6.3 on RFP Page 32 to the following? “The Contractor will not be reimbursed for any costs outside of the agreed upon firm-fixed-price or hourly rates provided in their Attachment B, Cost Proposal, excluding travel. As such, travel costs should not be included in Bidder’s proposed Hourly Rates. Payment shall be contingent upon the full and proper performance to the satisfaction of the Department, by the Contractor, of activities specified in the Agreement, approved Task Orders, and RFP.”</p>	See response to Question #68.
80.	Section 7.0: Proposal Submission (Page 32-22)	<p>Please confirm that e-mail is the only manner of submission, and that a hard copy is not required.</p>	This is confirmed.
81.	Attachment B: Cost Proposal	<p>Would it be acceptable for bidders to submit multiple rates, by tenure of personnel, to be used when invoicing each phase, provided they also provide a blended rate for each phase for evaluation purposes only?</p>	No. Bidders must provide one rate per phase as outlined in Attachment B: Cost Proposal.
82.	Attachment B: Cost Proposal	<p>Is there flexibility to redistribute hours across areas of work based on the State’s anticipated hours allotment provided on page 37 as well as referenced on pages 8-13 in the RFP?</p>	For the purposes of developing the cost proposal, the vendor should utilize the hours identified in the RFP as allocated for the various phases.

Question #	Corresponding RFP Section	Question	Answer
83.	Attachment B: Cost Proposal	Please clarify the manner in which the Attachment B Cost Proposal form will be evaluated. We are seeking guidance on the 25% weighting and comparison against the lowest not-to-exceed maximum price described in 8.4 Cost Evaluation, specifically are there specific tasks identified and a level of anticipated hours for each task?	The bidder who proposes the lowest not-to-exceed price on their Attachment B: Cost Proposal will receive the full 25% for the Cost Evaluation and additional bidder's cost score will be proportionate to the lowest.
84.	Attachment B: Cost Proposal	<p>Can you please clarify whether applicants are to include not-to-exceed maximum price information?</p> <p>Attachment B does not provide space for a not-to-exceed maximum price to be entered by bidders and the RFP acknowledges that “actual hours may be higher or lower” than the “anticipated total hours” provided on Attachment B.</p>	The bidder is not required to submit a maximum not-to-exceed price. The bidder should submit their Cost Proposal as described in Attachment B.
85.	Attachment B: Cost Proposal	How will the “lowest all-inclusive not-to-exceed maximum price” that is referenced in 8.4 Cost Evaluation section be calculated? Will it be based on the single hourly rates provided on Attachment B multiplied by the anticipated number of hours provided on the form? If so, will the not-to-exceed maximum price be increased if the number of hours increases? Or are bidders to factor in potential additional hours to provide a not-to-exceed maximum price?	<p>Bidders are required to complete the Cost Proposal in accordance with Section 6.3 and Attachment B. The Department will calculate each Bidder’s all-inclusive not-to-exceed maximum price based on the hourly bid prices provided in their submitted Attachment B: Cost Proposal.</p> <p>The resulting Contract may not exceed the overall contract value under the resulting contract.</p>
86.	Attachment B: Cost Proposal	<p>Attachment B provides space for only a single hourly rate by phase.</p> <p>May bidders propose rates based on labor categories (including potential MBE/WBE subcontractors) that would be used for work in all phases? Are the rates on Attachment B intended to be for Year 1 only?</p>	See response to Question #81.
87.	Attachment B: Cost Proposal	Our impression is that the estimated hours for phases 1, 2 and 3 represented in Attachment B – Cost Proposal and	Correct, estimated hours are for the entire duration of the contract.

Question #	Corresponding RFP Section	Question	Answer
		<p>Section B Scope of Services are totals for the lifetime of the contract and not annual numbers.</p> <p>Is that impression correct?</p>	
88.	Attachment B: Cost Proposal	How did NYS DOH determine the estimated number of hours available for each task referenced in Attachment B – Cost Proposal and Section B Scope of Services?	These hours are an estimate based the previous level of effort needed to support the programs identified in the RFP.
89.	Attachment B: Cost Proposal	Attachment B and the third paragraph of Section 6.3 on RFP Page 32 require Bidders to provide an Hourly Rate for each Phase/Task identified in Attachment B and as detailed in Section 4.1.B of the RFP. We believe that it would be cost advantageous to the State to allow Bidders to propose an hourly rate per labor category rather than an overarching blended hourly rate. Each bidder uses a different method to calculate their blended hourly rates and such an approach historically results in overstated total prices and leads to inefficient and cost-prohibitive procurements. Given the anticipated length of this engagement and the variability of scope and apportioning of hours, will the State allow Bidders to propose an hourly rate per proposed labor category rather than a blended hourly rate?	See response to Question #81.
90.	Attachment B: Cost Proposal	Will the State modify the second bullet point on Attachment B to the following? “The Contractor will not be reimbursed for any costs outside of the agreed upon firm-fixed-price or hourly rates provided in their Attachment B, Cost Proposal, excluding travel. Payment shall be contingent upon the full and proper performance to the satisfaction of the Department, by the Contractor, of activities specified in the Agreement, approved Task Orders, and RFP.”	See response to Question #68.
91.	Attachment B: Cost Proposal	Per Attachment B, it is understood that all proposed fixed prices must be developed using an estimated hourly buildup, however billing on an hourly or time and materials type basis is not customary to some Contractors’ commercial business	See response to Question #68.

Question #	Corresponding RFP Section	Question	Answer
		<p>practices. Such Contractors exclusively perform on a firm-fixed-price basis and develop a total fixed price based on projected hours (not actual time expended) and hourly rates that are set in the context of a highly competitive market; not a cost buildup or the application of indirect rates to a direct contractor salary. The firm-fixed-price approach offers more cost-effective options, transfers potential schedule and cost risk to the bidder, incentivizes bidder efficiency, eases the client's project management burden, and ensures maximized competition and an inclusive procurement open to all otherwise qualified bidders. Given some Contractors inability to bill based on hours worked, will the Department allow Contractors to propose and bill on a firm-fixed-price basis for the RFP phases/tasks and subsequent task orders?</p>	
92.	Amendment 1	<p>Section 4.1, paragraph 2, Phase 2: Implementation Support. No language under this point was struck out, however, the included language did not include Item 1 or 2b from the original RFP.</p> <p>Only item 2a was included and renumbered as item 1. Is it the State's intent to remove the original item 1 and 2b including the number of hours under this phase? If not, could the State clarify the language remaining in this section?</p>	<p>Please see the newly posted Amendment #2 on the Department's website here: https://www.health.ny.gov/funding/rfp/20034/.</p>