

**New York State Department of Health
RFP #20179: Medicaid Technical Advisory Services**

Questions and Answers Posted on or about March 29, 2023

#	Corresponding RFP Section	Question	Answer
1.	General	Will the TAS vendor or its subcontractors be allowed to bid on any additional MES-related RFPs as a prime or subcontractor?	<p>The TAS vendor will act as an extension of the DOS leadership team exposing them to MES information that would give them an advantage if bidding on future MES procurements. Therefore, the TAS prime and its subcontractors' firms will be precluded from bidding on downstream MES-related procurements, specifically the MES System and Data Integrator RFP and any MES module procurements.</p> <p>There are no vendors precluded from responding to the TAS RFP. The existing QA vendor is allowed to respond. Vendors who currently hold an existing contract with the Department also may respond.</p> <p>TAS Team (Prime Contractor or any Subcontractors vendor firms) that participate in the development or writing specifications for an MES procurement document will be prohibited from participating in or bidding on that procurement.</p> <p>See State Finance Law §163(2); and for technology procurements, see State Finance Law §163-a.</p>
2.	General	If there are vendors precluded from responding or bidding as part of a team, will the Department please provide a list of MWBE/SDVOB companies that are precluded from bidding for this RFP or future MES modernization RFPs due to existing contracts with DOH?	See response to question #1.
3.	General	<p>Are there downstream and/or upstream preclusions for vendors. In other words, can the vendor that wins the TAS engagement win later projects and can vendors currently engaged with DOH bid on the TAS project?</p> <p>Do such preclusions include sub-contractors?</p>	See response to question #1.

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4.	General	Will DOS allow for the delivery of work products from off-shore resources? While we anticipate direct access may not be allowed, will DOS consider expertise and support from outside the continental US?	<p>No. All TAS resources shall work in the continental US. All TAS staff are expected to work on site. Remote work may be allowed at 50%, at the discretion of the Department as stated in Section 4.3.3.3. Approved telecommuting will require an agreement on file or an approved reasonable accommodation allowing the TAS team member to work remotely. Telecommuters may be required to report to the official work site upon the Department's request therefore TAS team members should be within commuting distance.</p> <p>Please see Amendment #3 to the RFP</p>
5.	General	Does this RFP preclude the vendor from working on the any existing and subsequent SI contracts?	See response to question #1.
6.	General	What companies (including staff augmentation contractors) participated in developing or writing the specifications included in RFP #20179?	This question is not relevant to the submission of bids for this RFP.
7.	General	What companies are precluded from bidding on RFP #20179?	See response to question #1.
8.	General	Are all evaluators of RFP #20179 direct employees of NYS? If not, please identify those non-state participants involved in the evaluation process.	This question is not relevant to the submission of bids for this RFP.
9.	General	<p>In Gov. Kathy Hochul's Executive Budget, it was stated "the state workforce is facing a shortage of more than 12,500 workers, with more than 26 percent of the state workforce eligible to retire within the next five years." Given this is a ten-year contract, would institutional DOH knowledge lost through retirement represent a challenge to achieving the type of growth and transformation DOH seeks?</p>	The Department will perform their duties as described in the RFP.
10.	General	<p>Upon review of RFP# 20179: Medicaid Technical Advisory Services, we noted that it does not include a limitation of liability (LOL) provision. We request your consideration of a LOL provision, as previously negotiated and included in existing contracts between DOH and Contractor.</p> <p>LOL provisions are the industry standard for similar contracts and very few States nationally do not have an</p>	The Department reserves the right and is open to negotiating the inclusion of a limitation of liability provision within the scope of the RFP and in the best interest of New York State. Nonetheless, inclusion is not a guarantee and Bidders must be fully prepared to accept all of the terms and conditions set forth in the

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		<p>LOL as standard as a part of similar IT related contracts. Generally, large professional service firms simply will not bid on contracts without an LOL. As a result, the interests of the State and the taxpayers of NY would be harmed through reduced competition and a lack of proposals from the largest and most experienced vendors for the work requested.</p> <p>Based on the foregoing, we respectfully request your consideration of a Limitation of Liability provision. This could be accomplished in a couple of ways:</p> <ul style="list-style-type: none"> • Option 1: Issue an addendum to the RFP prior to the Q&A that includes a LOL provision. • Option 2: DOH considers waiting to take a position on the acceptability of an LOL until the evaluation of proposals in response to RFP No. 20179 and allow the parties to propose subject to such a provision if they so choose. By doing so, the State will have the opportunity to weigh a vendor's requested LOL in connection with the benefits of the vendor's proposal as well as the risks associated with the vendor's business structure and capitalization. Further, by weighing acceptability of a LOL as part of the evaluation process, the State may obtain greater competition, which furthers "best value procurement goals." If Option 2 is considered an addendum should be issued prior to the QA with the appropriate updates to Section 2.6 Important Information. Thank you for considering this request. We believe consideration of LOL is in the best interest of the Department to encourage participation from firms that might otherwise not propose in the absence of LOL and to promote a "best value" outcome for this important procurement. 	<p>RFP, without modification, should the Department determine this constitutes the best interests of New York State.</p>
11.	General	<p>Given the depth and breadth of services being requests, is the existing Quality Assurance (QA) vendor for the New York State of Health (NYSOH) and Medicaid administrative Services (MAS) Projects precluded from bidding?</p>	<p>See response to question #1.</p>

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12.	General	Since the TAS vendor is anticipated to support all projects related to the roadmap, will the TAS vendor be precluded from all downstream initiatives (e.g., SI and data warehouse, single fiscal agent, non-MAGI Medicaid).	See response to question #1.
13.	Section 1: Calendar of Events (Page 4 of RFP)	Will the Department allow an additional round of clarifying questions once answers are posted?	No. All responses to written questions will be posted by the Department on or about March 29, 2023, per Amendment #2.
14.	Section 1: Calendar of Events (Page 4 of RFP)	What is the anticipated award date?	The anticipated contract start date is on or about November 1, 2023, per Amendment #2. Should a date in the calendar of events be delayed, it is possible subsequent events could be delayed, at the discretion of the Department.
15.	Section 1: Calendar of Events (Page 4 of RFP)	If the evaluation schedule (bidder interviews or the award date) gets delayed, do they expect the start date to move further out respectively?	See response to question #14.
16.	Section 2.3: Strategic Relationship (Pages 5-6 of RFP)	<p>"The Department expects that many requirements will not be met without the utilization of subcontractors."</p> <p>Would the Department prefer proposals that identify named subcontractors, including MWBE subcontractors, with previous/current experience with OHIP business processes, DOS's EPMO, the MDW, NYSOH, ADP, WMS/IES, and eMedNY?</p>	<p>All proposals must include form 1, the MWBE utilization plan.</p> <p>Staff requirements are defined in section 4.3, and in revised attachments: Attachment D.1 – TAS Staffing Table Key Staff Responsibility and Experience Descriptions REVISED V2, and Attachment D.2 – TAS staffing Table Supplemental Staff Responsibility and Experience Descriptions REVISED V2.</p>
17.	Section 2.3: Strategic Relationship and Section 2.5: MES Goals and Objectives (Pages 5-6 and 8-9 of RFP)	<p>"The Department expects that many requirements will not be met without the utilization of subcontractors." Additionally, page 9 states "The Department is focused on improving health outcomes for New York residents through strategic programs such as Medicaid Redesign Team (MRT) and Value Based Payments (VBP)."</p> <p>Would the Department prefer proposals that identify named subcontractors, including MWBE subcontractors, with current experience with NYS MRT and VBP initiatives?</p>	See response to question #16.

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18.	Section 2.5: MES Goals and Objectives (Pages 8-9 of RFP)	Would the State consider purchasing any approved software tools and licenses directly through a reseller and have the TAS vendor offset the cost through their invoice process?	No. The Department requires the TAS vendor make the purchase of approved software tools and licenses and invoice the Department as described in Section 4.6 Information Technology.
19.	Section 2.7: Term of the Agreement (Page 10 of RFP)	Will award of this work preclude any Primes or their Sub-Contractors from future bidding on System's Integrator or EPMO RFPs?	See response to question #1.
20.	Section 4.1: Scope Overview (Page 11 of RFP)	Based on current DOH and ITS contracts that interface with DOH systems, are any incumbent vendors precluded from bidding on this TAS procurement or other future MES-related procurements described in RFP Section 4.1?	See response to question #1.
21.	Section 4.1: Scope Overview, Figure 3 (Page 12 of RFP)	Based on the TAS project plan timeline, is it the intent of the Department to have completed the strategic plans prior to selecting the S&DI vendor so that the S&DI RFP respondents will solution in line with NY DOH modernization plans, standards, and architecture?	No. The initial Strategic Management Plans will be developed based on the timeline provided in Section 4.1 and will be updated quarterly.
22.	Section 4.1: Scope Overview, Figure 3 (Page 12 of RFP)	To provide TAS respondents the ability to bring the right skills and staff, would the Department please provide additional description, definition, and scope for the future System and Data Integrator RFP including enterprise content management, enterprise print, decision support, business intelligence, unified portal, and enterprise data warehouse?	No. The Department cannot share specific information about future procurements.
23.	Section 4.1: Scope Overview, Figure 3 (Page 12 of RFP)	Do any of the components mentioned in the System and Data Integrator scope replace any existing capabilities? If so, would the Department provide a list of existing technology vendors?	This is unknown at this time.
24.	Section 4.1: Scope Overview, Figure 3 (Page 12 of RFP)	So that respondents to the TAS RFP can understand the anticipated future procurements and number of vendors, can the Department indicate if it is intended that the System and Data Integrator scope and contract will replace the existing MDW contract or if both contracts will remain distinct?	This question is not relevant to the submission of bids for this RFP.
25.	Section 4.1: Scope Overview, Figure 3 (Page 12 of RFP)	Can DOH provided an expected timeline for the Stages and Phases found in Figure 3: MES High-level Roadmap?	No. The selected bidder will assist the Department with the detailed roadmap to include timeline as outlined in Section 4.1 Scope Overview of this RFP.

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26.	Section 4.1: Scope Overview (Page 12 of RFP)	Does the Department expect that the TAS vendor will work with vendors who are primarily onsite, or could vendors be located in other locations and countries?	See response to question #4.
27.	Section 4.1: Scope Overview (Page 12 of RFP)	The paragraph references key milestones that are part of the roadmap but are not shared in the RFP. Please point us to the existing defined milestones – it is not clear that they are identified in the high-level roadmap on page 12.	The MES milestones are not defined at this time. Please see response to question #25 and Amendment #3.
28.	Section 4.1: Scope Overview (Page 12 of RFP)	"The TAS Team will provide additional business operations capacity to support the MES program. Key Staff will be needed throughout the contract period, while Supplemental Staff may be brought on to focus on specific or specialized tasks and activities" Does the supplemental staff be involved with implementing/developing any of the projects?	Yes. Both Key and Supplemental staff will be involved with MES projects.
29.	Section 4.2.1: Enterprise Architecture (Page 15 of RFP)	Will the Department please clarify if the TAS vendor, as part of the Enterprise Architecture or other Strategic Plans, will be selecting the preferred vendor components (technology, software, platforms, cloud) that bidders in the S&DI procurement must include in their solution?	No, however, the TAS vendor may be asked to support procurement activities and make recommendations to the Department.
30.	Section 4.2.1: Enterprise Architecture (Page 15 of RFP)	So that TAS RFP respondents can bring the right technical expertise, would the Department please indicate if they have selected any specific technologies or software for their modernization, and if yes, list these selections (e.g., master data management, document management, etc.)?	The Department has not selected MES technologies at this time. Bidders should bid staff that match the staff requirements defined in section 4.3, and in the <u>revised</u> Attachment D.1 – TAS Staffing Table Key Staff Responsibility and Experience Descriptions REVISED V2. After contract award, the Department will share its software information with the TAS team.
31.	Section 4.2.1: Enterprise Architecture (Page 15 of RFP)	"The TAS Team will be performing Technical Architecture activities including, but are not limited to: developing the technical architecture strategy, developing an enterprise cloud strategy including design, cloud selection, administration, cost management" Will this have to be done by TAS team independently or it needs to involve the vendor of the said project?	The TAS team will be expected to work both independently or in collaboration with current and future vendors. See sections 4.1 and 4.2.
32.	Section 4.2.1: Enterprise	"TAS Team will use department tools or assist the Department with identifying and procuring tools, including	Yes, please see Attachment 8, Appendix H and Attachment M to the RFP.

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	Architecture (Page 15 of RFP)	<p>but not limited to Metadata management tools to design, implement, and manage an enterprise-wide data practice."</p> <p>Will the TAS team have access to PII (personally identifiable information) and PHI (protectable health information) information?</p>	
33.	Section 4.2.1: Enterprise Architecture (Page 15 of RFP)	<p>"The TAS Team will be responsible for the communication and implementation of the Test Management Framework"</p> <p>What are the current testing methodologies or automated tools if any being used?</p>	After contract award, the Department will share its software information with the TAS team.
34.	Section 4.2.1: Enterprise Architecture, Paragraph 4 (Page 16 of RFP)	Does the State/DOH have standard set of tools and technology that they anticipate that the TAS vendor will need to utilize? If so, please provide a list of the standard set of tools and technology.	After contract award, the Department will share its software information with the TAS team.
35.	Section 4.2.1: Enterprise Architecture (Page 17 of RFP)	<p>"The TAS Team will provide Business Process Reengineering (BPR) services to DOS."</p> <p>Does DOS have existing "as-is" business process maps that are current?</p>	The TAS team will work with the Department to identify any existing "as-is" business process documentation.
36.	Section 4.2.2: Project Management (Pages 19-21 of RFP)	Does the Department have any issue tracking tool currently used to log and monitor incidents?	The Department is currently utilizing their MMIS vendor's IT Service Management (ITSM) Tools to log and monitor incidents.
37.	Section 4.2.3: Program Contract Management (Pages 21-22 of RFP)	<p>Section (C) "Procurement Support" under 4.2.3 of the RFP states that "if the TAS team (Prime Contractor or any Subcontractors) participates in the development or writing specifications for an RFP, these vendors will be prohibited from participating in that procurement." However, Section (C) also states that the "TAS team shall develop content required to establish procurement documents writing requirements, and support the analysis of bidder's submissions."</p> <p>Is TAS team participation in this task optional or a requirement and under what circumstances will a TAS vendor be prohibited from participating in MES procurements released by DOH?</p>	<p>See response to question #1.</p> <p>The TAS RFP bidders are to provide staff that can perform a complete contract including all requirements described in the RFP document. The procurement work is <u>not</u> optional for TAS Team members.</p>

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38.	Section 4.2.3: Program Contract Management (Pages 21-22 of RFP)	Despite the prohibition stated in section (C), can a TAS vendor be permitted to participate in MES procurements by virtue of setting up firewalls for any of its staff which support TAS procurements?	No. See response to question #1 and question #37.
39.	Section 4.2.3: Program Contract Management (Pages 21-22 of RFP)	With respect to the State's existing Medicaid systems, how does DOH envision implementing the TAS vendor's Section 2.3 requirements to collaborate with other contractors and consultants, specifically those that may have financial or performance impacts on the existing systems?	Regardless of potential impact, the Department expects the TAS contractor to make recommendations, use best practices, and resolve problems in collaboration with other exiting vendors as stated in Section 2.3.
40.	Section 4.2.4: People and Change (Pages 22-23 of RFP)	Please confirm that the TAS Vendor can provide the services outlined in Section 4.2.4 using Supplemental Staff under an approved SOW.	<p>No. The Department anticipates that the initial Strategic Management Plans will be completed by Key Staff.</p> <p>Bidders may request Supplemental Staff be approved to work on the quarterly updates to the Department approved Strategic Management Plans.</p> <p>See Amendment #3 to the RFP.</p>
41.	Section 4.2.4: People and Change (Pages 22-23 of RFP)	<p>This section states, "The TAS Team will also provide expertise, user manual development, and training to the Department and its contractors for tools and methodologies that are established within DOS and the MES Program."</p> <p>Is the TAS Team expected to provide training on the impacts of the changes, such as how does the change impact the jobs of Department staff?</p>	<p>The TAS Team is expected to work with the Department to identify the staff impacted by any change including but not limited to tools, methodologies, or process changes and provide training to those staff impacted by the change.</p> <p>The TAS Team may be asked to perform an assessment about the change and its impact on current business processes performed by Department staff.</p> <p>Please see section 4.2.4.</p>
42.	Section 4.2.4: People and Change (Pages 22-23 of RFP)	<p>"The TAS Team will provide the learning mechanisms for driving acceptance and mastery of the changes occurring within DOS and the MES Program, including training for DOS staff and its vendors and consultants, DOS' customers, and stakeholders."</p> <p>Is it DOH's preference that these "learning mechanisms" include on-site, in-person training sessions?</p>	<p>The Department expects the TAS vendor to use the most appropriate learning mechanism for the content and audience for the change topic.</p> <p>The Department anticipates that multiple learning mechanisms will be used, including, but not limited to, recorded training sessions (webinars), in-person training, how-to guides, virtual classroom, mentoring, coaching, etc.</p> <p>Please see Amendment #3 to the RFP.</p>

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43.	Section 4.2.4: People and Change (Pages 22-23 of RFP)	What is the approximate number of DOS staff, vendors, consultants, DOS' customers, and breakdown of other types of stakeholder groups that will require MES Program training?	The Department does not have an anticipated number at this time. Training will be provided by approved Supplemental Staff following the process identified in 4.3.2.2.
44.	Section 4.3.1: Staffing Introduction (Page 23 of RFP)	<p>"The contractor shall provide twelve (12) hourly-based Key Staff, who must be employed by the prime contractor. The contractor will provide or may subcontract Supplemental Staff." Page 25 suggests "the contractor may request supplemental staff join the TAS Team." Further, page 26 identifies that "supplemental staff labor categories and experience have been defined based on the anticipated needs of the Department."</p> <p>Would DOH be opposed to proposals that identify potentially valuable subcontracted Supplemental Staff who are committed and experienced in helping DOH achieve its goals?</p>	<p>Yes, the Department would be opposed to proposals that identify Supplemental Staff as they will not be evaluated at time of proposal submission.</p> <p>All supplemental staff require the Department's written approval before they can be added to the team.</p> <p><i>"In addition to the Key Staff, the contractor must provide Supplemental Staff on an as needed basis with approval by the Department. Either the Department or the contractor may request to add Supplemental Staff to the TAS Team based on the needs of the MES program."</i></p> <p>Section 4.3.2.2</p>
45.	Section 4.3.2.2: Supplemental Staff (Pages 25-26 of RFP)	<p>Both the Department and the contractor may request supplemental staff join the TAS Team."</p> <p>Does this mean that NYS may request specific individuals to be added to the project team?</p>	No. A title or role will be requested using the Labor Category provided in Attachment D.2 – TAS Staffing Table Supplemental Staff Responsibility and Experience Descriptions. See Section 4.3.2.2.
46.	Section 4.3.2.2: Supplemental Staff (Pages 25-26 of RFP)	<p>Upon contract startup please confirm that the following examples of ongoing routine project/contract management and administrative tasks, activities and functions will be approved as an SOW supported by Supplemental Staff in one or more labor categories: Routine Work as defined in Section 4.2.2.A; administrative/project support for scheduling meetings; preparing and distribution of meeting agenda and minutes; quality assurance of documents and deliverables; invoicing; time reporting and validation; status reporting; set up and maintenance of document repository as defined in Section 4.5.5; document and deliverable management; development and maintenance of MS Project schedules; SharePoint customization; etc.</p> <p>If these activities cannot be approved to be performed by supplemental staff under an SOW, where should the staff</p>	<p>Routine Work as described in section 4.2.2 A and in section 4.5.5 may be performed by either Key or Supplemental staff.</p> <p>For work described in Section 4.2.2.A, if Supplemental Staff support is needed, the Department will approve the appropriate Supplemental Staff titles within its planned budget.</p>

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		costs to support these required activities from the RFP be included in the cost proposal?	
47.	Section 4.3.2.2: Supplemental Staff (Pages 25-26 of RFP)	Are resumes required for supplemental staff positions?	<p>Resumes are not required at the time of bid for Supplemental Staff.</p> <p>However, during the contract term, resumes should be provided in addition to using the forms described in Section 4.3.2.2.</p> <p>Please see Amendment #3 to the RFP.</p>
48.	Section 4.3.2.2: Supplemental Staff and Section 5.4.1: TAS Strategic Management Plans Payment (Page 26 and 35 of RFP)	<p>The last sentence of Section 4.3.2.2 states, "In addition, upon contract start, the Department and contractor will determine if supplemental staff are needed for customization of the Strategic Management Plans listed in Attachment O."</p> <p>However, Section 5.4.1 states, "Their proposed fixed fee includes the baseline plan and NYS customizations. The contractor will not invoice for staff hours applied to develop the initial custom plans; this shall be included in the fixed fee proposed."</p> <p>Under what circumstances would supplemental staff be approved to customize the Strategic Management Plans and be paid for the hours worked?</p>	See response to question #40 and Amendment #3 to the RFP.
49.	Section 4.3.3.2: Staff Vacancies, Performance, and Replacements (Page 27 of RFP)	<p>This section states, "...responsibilities for any Key and Supplemental Staff position that must be replaced with a qualified replacement to be made available within forty-five (45) business days, subject to the review and approval of the Department."</p> <p>Please confirm that submission of a qualified candidate resume to the Department for approval within 45 business days meets this requirement that the qualified replacement was made available".</p>	See Amendment #3 to the RFP.
50.	Section 4.3.3.2: Staff Vacancies, Performance, and Replacements (Page 27 of RFP)	<p>Is the time taken by the Department to review resumes of qualified candidates, interview candidates and provide approval or rejection of candidates excluded from the 45 business days SLA requirement?</p> <p>What other time is excluded from the SLA?</p>	See Amendment #3 to the RFP.

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51.	Section 4.3.3.2: Staff Vacancies, Performance, and Replacements (Page 27 of RFP) and Attachment N, Service Level Agreement (SLAs)	<p>The last sentence in this paragraph states, In the event the Department does not approve the replacement staff member, the contractor shall re-submit a replacement for Department approval within 45 business days.”</p> <p>Please confirm that the 45-business day timeframe for the SLA - 01 resets if a candidate is rejected by the Department.</p>	See Amendment #3 to the RFP.
52.	Section 4.3.3.3: Office Facilities and Additional Operations (Page 27 of RFP)	<p>Section 4.3.3.3 says “Key and Supplemental staffs shall work at the approved site. Depending on the staff role and assignments, the Department may allow telecommuting. The Department’s telecommuting policy currently allows for 50% remote work. The remote work requirement is at the discretion of the Department.”</p> <p>Considering the complexity and duration of the project and the need for specialized and experienced resources that may not be local to the Albany area, will the Department grant the contractor sufficient flexibility for remote work to meet your project requirements with the most appropriate resources”?</p>	See response to question #4 and Amendment #3 to the RFP.
53.	Section 4.3.3.3: Office Facilities and Additional Operations (Page 27 of RFP)	The RFP states, "the contractor shall include strategies to rapidly procure additional space for Department use if the Department adds staff to the MES project (i.e., additional vendors)". Should TAS bidders assume that the TAS facility will need to include space for other MES vendors and teams, such as the SD&I, as they are onboarded?	Yes. Please see Amendment #3 to the RFP.
54.	Section 4.3.3.3: Office Facilities and Additional Operations (Page 27 of RFP)	The RFP requires the vendor to acquire office space for itself and DOS members. Can DOS share the staffing size and office/configuration requirements for DOS residents?	<p>The office configuration and staff count requiring space is described in Attachment L.</p> <p>Please see Amendment #3 to the RFP.</p>

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55.	Section 4.3.3.3: Office Facilities and Additional Operations (Page 27 of RFP)	Should the vendor's office space be deemed no longer needed and lease termination be mandated, will DOS transition of 6 months continue to fund any lease requirements through the transition period? What will DOS's notification period be should DOS determine the vendor's lease space is no longer needed?	The contractor will continue to provide leased office space (the Facility) for the TAS team and Department staff and its contractors during a transition to a new facility space if new space is needed. The Department will provide advance notice no less than 60 days, if there is a need for additional space, or final termination of the leased space. The Department and the TAS contractor can determine the facility transition details within the Facility Management Plan. Please see Amendment #3 to the RFP.
56.	Section 4.3.3.3: Office Facilities and Additional Operations (Page 27 of RFP)	This Section states "The contractor shall prepare a Facilities Management Plan and Physical Security Plan within the first 30 days of occupying the facility." If bidders are utilizing facility swing-space while the proposed facility is being configured/built out, is the Facility Management Plan and Physical Security Plan due within 30 days of occupying this swing space?	The Department anticipates a facility that can be and will be built out by the contract start date. The Facilities Management Plan and Physical Security Plan are due within 30 days of occupancy of the approved Facility. Please see Amendment #3 to the RFP.
57.	Section 4.3.3.3: Office Facilities and Additional Operations (Page 27 of RFP)	"Depending on the staff role and assignments, the Department may allow telecommuting. The Department's telecommuting policy currently allows for 50% remote work. The remote work requirement is at the discretion of the Department." Can the department clarify if Telecommuting is allowed and at what levels? What percentage of staff must be located locally in NY? Will local facilities be required from day 1 of contract start or is there an allowable period to make these facilities available?	See response to question #4 and question #56.
58.	Section 4.3.3.3: Office Facilities and Additional Operations (Page 27 of RFP)	Please confirm that DOH expects facility space in place no earlier than 30 days after contract registration.	See Response to question #56.
59.	Section 4.4: MES Program and TAS	Please confirm that the scope of services in Section 4.4 – MES Program and TAS Contract Management refers to	Section 4.4 refers to managing the TAS contract.

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	Contract Management (Pages 27-29 of RFP)	managing the TAS contract versus managing the contracts of other vendors.	
60.	Section 4.5.1: Status Reports (Page 29 of RFP)	This bullet states, "Current staff lists/status, location, % allocated time to project for supplemental or third-party staff, and status..." Please clarify or define third-party staff.	Please see Amendment #3 to the RFP.
61.	Section 4.5.5: Documentation (Page 31 of RFP)	Is the TAS Vendor responsible to make sure documents loaded and stored by other MES vendors and State staff are compliant with RFP requirements (e.g., up to date, version control)?	Yes. The TAS Vendor will be responsible for the quality of all MES system- or business- related documentation
62.	Section 4.5.5: Documentation (Page 31 of RFP)	How is the existing system's documentation maintained? Is there a documentation library in place? Does software to update and maintain system documentation?	After contract award, the Department will share its current practices and software information with the TAS team.
63.	Section 4.5.5: Documentation (Page 31 of RFP)	"The TAS Team shall work with Department Staff to identify the appropriate software tool(s) to use for the Document Repository". Is it DOH's preference that the Document Repository be hosted on systems (a) owned/in custody by DOH/NYS or (b) owned/in custody by the contractor?	Bidders shall propose a Document Management Solution that is owned and in the custody of the Department.
64.	Section 4.5.5: Documentation (Page 31 of RFP)	Section 4.5.5 identifies both a "Document Repository" and a "Department Repository". Is the reference to "Department Repository" on page 30 a typographical error?	The Document Repository and Department Repository are the same. Please see Amendment #3 to the RFP.
65.	Section 4.6: Information Technology (Page 31 of RFP)	The RFP states the following: <ul style="list-style-type: none"> • The contractor shall be responsible for providing the TAS Team, both Key Staff and Supplemental Staff, with IT equipment, laptops and other components necessary for the TAS Team to perform the responsibilities and meet requirements of this RFP. • All laptops will be imaged by the Department to facilitate access to Departmental assets. • The contractor will provide a lists of tools the response team will use to build out the program • These items or services (software tool(s)) will be funded through line item identified as "Supplemental Funding" within Schedule A of the Cost Proposal. 	The Department will be responsible for creating and installing the image on laptops. Bidders may recommend, propose, and list solutions (software, hardware, cloud solutions, etc.) in their technical proposal; however, bidders should NOT include the cost of these solutions in their cost proposals. All solutions require prior approval by the Department which would occur after contract award. All solutions must meet Security and Privacy requirements stated in the RFP.

#	Corresponding RFP Section	Question	Answer
		Based on the statements above, please confirm it will be the Department's responsibility to install the existing/procured program tools on the contractor purchased/DOH imaged laptops.	
66.	Section 4.6: Information Technology (Page 31 of RFP); and Attachment L and M	<p>The RFP states that the contractor will be responsible for providing laptops for the TAS staff and that they will be imaged by the Department. Please confirm that the intent is to have all work performed within the State environment.</p> <p>If this assumption is incorrect, will you allow the vendors to provide exceptions to Attachment M following release of the Q&A?</p>	All work will be performed within the State Environment. The Department will not allow for exceptions to the Security and Privacy requirements described in the RFP.
67.	Section 4.6: Information Technology (Page 31 of RFP)	<p>Would the Department consider accepting the proposed revision below?</p> <p>The Department's applications and all systems and components supporting them, including but not limited to any forms and databases that include Personal Health, Personal Identification or other New York State information, must comply with <u>applicable</u> NYS security policies and standards listed at https://its.ny.gov/policies, which have been identified to contractor as applicable.</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
68.	Section 4.7: Security (Pages 31-32 of RFP)	For infrastructure required, pursuant to section 4.7, does DOS require data and infrastructure on premise or can a cloud solution be bid and deemed responsive?	See response to question #66.
69.	Section 4.7: Security (Pages 31-32 of RFP)	<p>Would the Department consider accepting the proposed revision below?</p> <p>The selected contractor shall comply with all <u>applicable</u> privacy and security policies and procedures of the Department nys-p03-002 information security policy.pdf and applicable state and federal law and administrative guidance, including compliance with NIST 800.53 standards, with respect to the performance of this contract which are identified to contractors as applicable</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.

#	Corresponding RFP Section	Question	Answer
		to the contractor's provision of services and included herein.	
70.	Section 4.7: Security (Pages 31-32 of RFP)	<p>Would the Department consider accepting the proposed revision below?</p> <p>The contractor is required to include in all contracts and Business Associate Agreements with their subcontractor's language surrounding the security and privacy requirements as well as the language contained in the Confidentiality Language for Third Parties section of the DUA. If any breach or suspected breach of the data or confidentiality occurs, whether the breach occurred with the contractor or subcontractor, the Department must be notified promptly immediately.</p> <p>The contractor shall maintain and provide discuss with to the Department upon request its data confidentiality plans and procedures for meeting security requirements as they relate to the deliverables and services referenced within this RFP, including all plans and procedures as they relate to subcontractor work where applicable. ...The contractor will, <u>as applicable to its provision of services,</u> comply with fully with all current and future updates of the <u>applicable</u> security procedures of the Department, as well as with all applicable State and Federal requirements in performance of his contract.</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
71.	Section 5.2: Questions, 1st Paragraph (Page 33 of RFP)	Will the Department release rolling answers to vendor questions? This approach will allow vendors to ask clarifying questions within the question/answer timeframe.	No. Please see response to question #13.

#	Corresponding RFP Section	Question	Answer
72.	Section 5.4: Payment (Page 35 of RFP)	The last paragraph ends with, "Payment terms will be:" The payment term is missing. Please confirm payment terms are net 30 days from receipt of monthly billing.	See Section 5.4 Invoices. It is anticipated that the contractor will receive payment net 30 days from approval of monthly billing. Payment terms are in the subsections within Section 5.4.
73.	Section 5.4.1: TAS Strategic Management Plans Payment (Page 35 of RFP)	Can the awarded contractor utilize unnamed temporary consultant resources to develop and customize the TAS Strategic Management Plans during the first 6 months of the contract under the direction of Key Staff and include these costs in the fixed fee for each Strategic Management Plan?	No. Please see section 5.9 subcontracting. The Department anticipates that the initial Strategic Management Plans will be completed by Key Staff. See Amendment #3 to the RFP.
74.	Section 5.4.3: Supplemental Staff Payment and Attachment B: TAS Cost Proposal (Page 35 of RFP and Attachment B, Tab C)	This section states, The Department has budgeted a maximum number of Supplemental staff for each contract year." Will the Department provide bidders with the budget for maximum number of supplemental staff per contract year? How does the budgeted supplemental staff hours per year compare to the supplemental hours in Attachment B, TAS Cost Proposal -Tab C, Supplemental Staff?	No. The Department will not share its budget for supplemental staff. Bidders should follow the directions provided in section 6.3 to prepare their cost proposal.
75.	Section 5.4.4: Invoices (Pages 35 and 36 of RFP) and Attachment N: Service Level Agreement (SLAs)	Will the Department please eliminate the Liquidated Damages of 10% of preceding month invoice amount for invoices received after 30 or more calendar days after the close date of the preceding month as contractors may not accept the financial risk of this RFP provision? We agree with the SLA as it is standard best practice of nearly all businesses to submit invoices within 30 days of the close of the month. Contractors have a financial incentive and strict accounting policy and processes to submit invoices within 30 days. Contractors incur delays in payments and increased aged accounts receivables if invoices are submitted late. Contractors should not be automatically penalized for any rare delays or errors in	See Amendment #3 to the RFP.

#	Corresponding RFP Section	Question	Answer
		<p>invoice submission as this is easily and quickly remediated by the contractor. In general, Liquidated damage amounts should represent an estimate of losses suffered for failure to meet the SLA. The RFP LD are conspicuously disproportionate to the probable losses to the State as we are not aware of any loss suffered by the State if a contractor submits an invoice after 30 days or an invoice is rejected due to a material error. One could argue that the State actually benefits from delayed invoices since it delays when the State actually pays the contractor, and the Department gains the time value of money.</p>	
76.	Section 5.4.4: Invoices (Pages 35 and 36 of RFP) and Attachment N: Service Level Agreement (SLAs)	<p>Will the Department please eliminate the Liquidated Damages of .5% of the invoice amount due to the Department rejecting an invoice due to a material issue as contractors may not accept the financial risk of this RFP provision?</p> <p>We agree with the SLA as is standard best practice of nearly all businesses to submit invoices within 30 days of the close of the month. Contractors have a financial incentive and strict accounting policy and processes to submit invoices within 30 days. Contractors incur delays in payments and increased aged accounts receivables if invoices are late. Contractors should not be automatically penalized for any rare delays or errors in invoice submission as this is easily and quickly remediated by the contractor. In general, Liquidated damage amounts should represent an estimate of losses suffered for failure to meet the SLA. The RFP LD are conspicuously disproportionate to the probable losses to the State as we are not aware of any loss suffered by the State if a contractor submits an invoice after 30 days or an invoice is rejected due to a material error. One could argue that the State actually benefits from delayed invoices since it delays when the State actually pays the contractor, and the Department gains the time value of money.</p> <p>We would also ask that the Department eliminate the Liquidated Damages of 2% of the invoice amount due to</p>	See Amendment #3 to the RFP.

#	Corresponding RFP Section	Question	Answer
		the Department rejecting an invoice for a 2nd time, or more, due to material issues.	
77.	Section 5.4.6: Additional Operations Payment and Attachment B: TAS Cost Proposal (Page 36 of RFP and Attachment B, Tab E)	Please confirm it would be acceptable for the contractor to invoice for additional operations costs monthly as they are incurred.	Additional Operations Payment shall be invoiced monthly. See Amendment #3 of the RFP.
78.	Section 5.6: Equal Employment Opportunity (EEO) Reporting (Pages 37-38 of RFP); and Attachment 5	Section 5.6 mentions "...the Bidder should submit with the bid or proposal an Equal Employment Opportunity Staffing Plan identifying the anticipated work force to be utilized on the Contract." Is this form limited to the (12) Key Staff personnel included on the Bid from Section 4.3.2.1?	The EEO staffing plan shall include the 12 Key Staff.
79.	Section 5.9: Subcontracting (Pages 38-39 of RFP)	Would the Department consider removing this provision as it is repetitive of NYSDHC Section VIII?	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
80.	Section 5.21: Intellectual Property (Page 42 of RFP)	<p>Would the Department consider accepting the proposed revision below?</p> <p>Any work product created pursuant to this agreement and any subcontract shall become the sole and exclusive property of the New York State Department of Health, which shall have all rights of ownership and authorship in such work product. Upon full and final payment to Contractor of fees owed under the Contract, Contractor (i) assigns to Client, all right, title and interest in and to the deliverables except to the extent any Contractor Property is contained therein, and (ii) grants Client a royalty-free, non-exclusive, non-transferable, non-sublicensable perpetual license, to use such Contractor Property solely in connection with Client's internal use of the deliverables. Contractor Property shall mean all intellectual property,</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.

#	Corresponding RFP Section	Question	Answer
		<p><u>technology, know-how, methodologies, works of authorship, and other materials pre-existing the Contract or created, acquired, or licensed separately from the Contract, or created in performance of the Contract which are not specific to Client, including any modifications, enhancements, improvements, or derivative works. Notwithstanding anything herein that may be construed to the contrary, Client agrees that nothing in this Contract prevents Contractor from using Residual Knowledge, which includes generalized knowledge, experience, know-how, or any of the ideas, concepts, methodologies, tools or techniques derived from or discovered during the provision of the Services performed under the Contract.</u></p>	
81.	Proposed Section 5.25: Additional Terms	<p>Would the Department consider adding a limitation of liability clause as identified below?</p> <p><u>1. Limitation of Liability.</u> <u>Notwithstanding anything else in this Contract to the contrary, including all attachments, 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 Contract or the services performed under the Contract shall be limited to the amount of fees paid to the Contractor under the Contract. The Contractor will not be liable for consequential, special, indirect, incidental, punitive or exemplary damages, costs, expenses, or losses (including, without limitation, lost profits and opportunity costs). The provisions of this paragraph shall apply regardless of the form of action, damage, claim, liability, cost, expense, or loss asserted, whether in contract, statute, rule, regulation or tort (including but not limited to negligence) or otherwise.</u></p>	See response to question #10.
82.	Proposed Section 5.25: Additional Terms	<p>Would the Department consider adding the below language to the RFP?</p> <p><u>2. Management Decisions.</u> <u>Department acknowledges and agrees that the Contractor's services may include advice and recommendations; but all decisions in</u></p>	See Amendment #3 to the RFP.

#	Corresponding RFP Section	Question	Answer
		<p>connection with the implementation of such advice and <u>recommendations shall be the responsibility of, and made by, Department. We will not perform management functions or make management decisions for Department.</u></p>	
83.	Proposed Section 5.25: Additional Terms	<p>Would the Department consider adding the below language to the RFP?</p> <p><u>3. Use of Technologies.</u> <u>Contractor's audit technologies, software productivity tools and certain technology infrastructure and, necessarily, your confidential information, may be hosted in cloud environments operated by Contractor Resources, notwithstanding other requirements of this contract. In addition, Contractor may license certain proprietary and third-party software tools ("Enabling Tools") for use by Department to facilitate the Services. All other use is prohibited. Department may not redistribute, reproduce (except as necessary to run), modify, commercialize, allow third parties to access (unless authorized by Contractor in writing), or reverse engineer or decompile (except where such rights cannot be limited by applicable law) Enabling Tools. Enabling Tools are not intended to be used as a system of record, repository, or hosting service, and Department access to the Deliverables and other documents will be removed from the Enabling Tools within a reasonable period of time following the conclusion of the engagement to which they relate. Department shall download such Deliverables and documents for its records. Department acknowledges that use of Enabling Tools may be used notwithstanding other requirements of this Contract and may be subject to additional terms specified in an engagement letter or other agreement. Enabling Tools are provided on an "as is," "as available" basis.</u></p>	<p>No. The Department expects bidders to recommend software tools and processes that may be used to fulfil the requirements of this RFP. After contract award, the Department and the Contractor will determine what tools and how we may use those tools, for the MES program.</p> <p>The TAS team shall ensure that any system, framework, platform, software licenses, or service provided or created will be fully transferrable to the Department or its successor entity during contract transition (section 4.9) and by the end of the contract term. This provision applies to the deliverables of any documents, whether spreadsheet, diagram, presentation, or other, including embedded diagrams, content, pictures, etc. They must be in their native form and fully editable by the Department.</p>
84.	Section 6: Proposal Content (Page 44 of RFP)	This section states, "Bidders are therefore cautioned not to include any Cost Proposal information in the Technical Proposal documents."	Yes. This is acceptable.

#	Corresponding RFP Section	Question	Answer
		Please confirm that it is acceptable to provide costing for subcontractors in the MWBE Forms within the Administrative Proposal.	
85.	Section 6.1.E: MWBE Forms (Page 45 of RFP) and Attachment A	Per RFP Section 5.6 and 6.1, Attachment 5 Form 4: Staffing Plan is required to be submitted by the Offeror and each subcontractor as part of the bid or proposal package. However, Attachment 5 Form 4 is not listed on Attachment A – Proposal Document Checklist as a required part of the submission. Please confirm Attachment 5 Form 4 is required from the Offeror and each subcontractor and should be added to the Attachment A – Proposal Document Checklist.	This is confirmed. Include Attachment 5 Form 4 with submission. Please see Amendment #3 to the RFP.
86.	RFP Section 6.1.G: Bidder's Certified Statements (Page 45 of RFP)	This requirement states, "Attachment A must be signed..." Please confirm this should instead refer to Attachment 7.	This is confirmed. Please sign Attachment 7. Please see Amendment #3 to the RFP.
87.	RFP Section 6.1.G: Bidder's Certified Statements (Page 45 of RFP)	The instructions for Attachment 7 indicate that it contains information regarding Attachment A; however, there is no references to Attachment A in Attachment 7. Please Clarify.	Please see response to question #86 and Amendment #3 to the RFP.
88.	Section 6.1.I: Diversity Practices Questionnaire (Page 45 of RFP)	This section states, "Responses will be formally evaluated and scored." Can the State please provide detail on how this questionnaire will be scored (i.e., adjectival evaluation scale with detail on how to achieve each score or a total number of points with detail on how points will be determined)?	No. This information will not be shared with the bidding community.
89.	Section 6.1.L: State Finance Law Consultant Disclosure Provision (Page 46 of RFP)	The section asks for the State Consultant Services Form B, Contractor's Annual Employment Report, which should be submitted for each state fiscal year included in the resulting contract. Please confirm that only Form A should be submitted with the proposal, and Form B will be submitted at a later date if the Contractor is awarded the contract.	This is confirmed. Form A would be required as part of the submission and B to follow. See Amendment #3 to the RFP.
90.	Section 6.1.L: State Finance Law Consultant Disclosure	Please clarify if the Department expects subcontractors to submit Form A at time of proposal submission or if	No, subcontractors would not be required to submit Form A with the proposal, as this only applies to Key Staff and the Prime Contractor. See Section 4.3.1.

#	Corresponding RFP Section	Question	Answer
	Provision (Pages 45-46 of RFP)	bidders can submit Form A for each subcontractor after contract award.	
91.	Section 6.1.L: State Finance Law Consultant Disclosure Provision (Pages 45-46 of RFP)	Please verify that the contractor does not need to complete and submit the Submit State Consultant Services Form A: Contractor's Planned Employment and Form B: Contractor's Annual Employment Report with the proposal.	See response to question #89 and Amendment #3 to the RFP.
92.	Section 6.1.M: Sales and Compensating Use Tax Certification (Tax Law, § 5-a) (Page 46 of RFP)	Please verify that the contractor does not need to complete and submit the Form ST-220-CA with the Department and Form ST-220-TD with the DTF with the proposal.	The ST-220-CA must be met before contract award and not required for bid submission.
93.	Section 6.2.D: Documentation of Bidder's Eligibility Responsive to Section 3.0 of RFP (Pages 47-48 of RFP)	Can prime contractors reference the same projects/client work to meet multiple minimum qualifications for items 1-6?	Yes.
94.	Section 6.2.D: Documentation of Bidder's Eligibility Responsive to Section 3.0 of RFP (Pages 47-48 of RFP)	Since the minimum qualifications must be for the PRIME contractor, is it necessary to provide the same quals for any subcontractors used or will a general statement of their capabilities and roles for this project be sufficient?	Section 3.0 Minimum Qualifications does not apply to subcontractors. A description of how they plan to meet MWBE goals is required on Form 5.
95.	Section 6.2.E: Technical Proposal Narrative (Page 48 of RFP)	Does the state want the TAS Proposal requirements Matrix to be printed into PDF and inserted in the Technical proposal? Or submitted as a separate Excel file with the Technical Proposal?	The TAS Matrix shall be filled-in using excel and saved as PDF and submitted it with the Technical proposal.
96.	Section 6.2.E: Technical Proposal Narrative, Approach to the Project, Subsection E2 (Page 49 of RFP)	<p>The last sentence in the E2 table states, "List tools your team will use to build out the EA program. Describe interactions with customers and vendors."</p> <p>For work in the Enterprise Architecture areas listed in items A through I, will the Department describe any current enterprise architecture, business process, or data modeling software applications or tools already in use by the Department that may require migrating data, integration, or adoption by the bidder for use on this project.</p>	After contract award, the Department will share its software information with the TAS team.

#	Corresponding RFP Section	Question	Answer
97.	Section 6.2.E: Technical Proposal Narrative, Subsection E.9 (Page 53 of RFP)	Since the State is responsible for imaging of the laptops, can you please confirm that the State will also be responsible for tracking and managing of said laptops in regard to updates and maintenance of installed software?	The contractor and the Department shall collaborate to ensure software images and other approved and installed software under this contract is tracked and maintained.
98.	Section 6.3: Cost Proposal and 7.: Proposal Submission (Pages 55-57 of RFP)	The proposal submission instructions in Section 7 indicate that all three parts of the proposal should be in a password protected PDFs and include the page numbers at the bottom of each page. However, in Section 6.3, the instructions indicate to submit in the Excel format with no deviations. The Excel spreadsheet doesn't include page numbers. Do you want both a PDF and Excel submission? Do you want the contractor to add page numbers to the Excel worksheet?	Please see Amendment #3 to the RFP and Attachment B – Cost Proposal REVISED V2. Submissions without the REVISED Cost Proposal will not be evaluated.
99.	Section 6.3: Cost Proposal and 7.: Proposal Submission (Pages 55-57 of RFP)	How do you want the signature included in the Excel spreadsheet? We can add an electronic signature, but that doesn't fulfill the requirements in Section 7 for a handwritten signature and signed in blue ink.	See response to question #98 and Amendment #3.
100	Section 7: Proposal Submission (Page 57 of RFP)	This section states that a font size of eleven (11) points or larger should be used. Is it permissible for bidders to use a smaller font size for graphics and tables as long as the text is still legible?	Yes. Provided that the text is legible.
101	Section 7: Proposal Submission (Page 57 of RFP)	RFP states: ...attach password protected, PDF proposals in three separate emails... Please confirm that RFP Attachments provided in Excel (Attachment B – Cost Proposal and Attachment G – TAS Proposal Requirements Matrix) should be provided to the State in their original Excel format and not as a PDF. This will mean that the Technical Proposal will have 2 files – one PDF and one Excel. If correct amend the submission requirements on page 57 of the RFP to allow for submission of Excel files.	See response to question #95 and question #98.
102	Section 7: Proposal Submission (Page 57 of RFP)	The RFP states, "A font size of eleven (11) points or larger should be used with appropriate header and footer information."	See response to question #100.

#	Corresponding RFP Section	Question	Answer
		Please confirm that it is acceptable to use a font size no smaller than nine (9) point for graphics, tables, headers, and footers.	
103	Section 7: Proposal Submission, Paragraph 6 (Page 57 of RFP)	May Bidders submit Tables in a font size of ten (10) points or larger and figures/graphics in a font size that is legible?	See response to question #100.
104	Section 7: Proposal Submission and Attachment B: TAS Cost Proposal (Page 57 and 63 of RFP)	RFP Section 7 asks bidders to submit their proposal in three distinct PDF files. On page 63, the RFP states, "Offerors must use the Microsoft Excel spreadsheet... Deviations from this format are not permitted." This section continues with, "Offerors should submit the Excel spreadsheet in electronic form in accordance with Section 7, Proposal Submission." Please confirm that bidders are to enter information into the Excel spreadsheets (e.g., Attachment B and Attachment G), but should submit these documents in PDF format as noted in Section 7.	See response to question #95 and Amendment #3.
105	Section 8.3: Technical Evaluation (Page 58 of RFP)	Will NYS DOH provide a breakdown of the 80 Technical Proposal Points by the three evaluated subcomponents (i.e., 50 points for Technical Narrative, 20 points for Strategic Management Plans, and 10 points for Interview)?	No. This information will not be shared with the bidding community.
106	Section 8.3: Technical Evaluation and Section 8.4: Cost Evaluation (Page 58 of RFP)	In order to maximize the Best Value assessment and avoid technically-marginal low-bidders, is there a minimum number of Technical Proposal Points an offeror must receive in order to then have their Cost Proposal scored for evaluation?	No. There is no minimum passing score related to the Technical Proposal Points for this procurement.
107	Attachment A: Proposal Document Checklist (Page 61 of RFP)	Does the State want Attachment A submitted with the proposal, or is it only for the vendors use when preparing the proposal? If the State wants it to be submitted, where in the proposal should it go? Perhaps after Attachment A?	Bidders are not required to submit Attachment A with the submission of their proposal.
108	Attachment A: Proposal Document Checklist (Page 61 of RFP)	Please note that Attachment 6 - Encouraging Use of New York Businesses Attachment 7 - Bidder's Certified Statements, completed & signed are labeled incorrectly as Attachment 6 is §6.1.F and Attachment 7 is §6.1.G on page 45 of the RFP.	Please see Amendment #3 to the RFP.

#	Corresponding RFP Section	Question	Answer
109	Attachment B: TAS Cost Proposal (Tab C of Cost Proposal)	In reviewing Tab C of the Pricing Schedule, we noticed that cells B6 – B13 do not pull from Tab D as expected. Would the Department please provide an updated Attachment B, TAS Cost Proposal?	See response to question #98 and Amendment #3.
110	Attachment B: TAS Cost Proposal	Will NYS DOH correct the formulas in RFP Attachment B – Cost Proposal, worksheet C. Supplemental Staff”, cells B6 through B13? It seems likely these cells should link to the next worksheet, as the cells below this range do (cells B14 through B42).	See response to question #98 and Amendment #3.
111	Attachment B: TAS Cost Proposal	Will the DOH remove the Pay Rate and Markup % columns from the worksheet named D. Bidder’s Staffing Rates of the RFP Attachment B – Cost Proposal? Adequate competition and the government’s utilization of Best Value evaluation should result in fair and reasonable fully loaded labor rates, thereby removing the need for additional cost type data.	The Department will not remove the Pay Rate and Markup %. Evaluation information will not be shared with the bidding community.
112	Attachment B: TAS Cost Proposal	If the Pay Rate and Markup % columns are not removed from Attachment B, how will the DOH utilize the “Pay Rate” information in their evaluation of offerors’ Cost Proposals?	See response to question #111.
113	Attachment B: TAS Cost Proposal	If the Pay Rate and Markup % columns are not removed from Attachment B, how will the DOH utilize the “Markup %” information in their evaluation of offerors’ Cost Proposals?	See response to question # 111.
114	Attachment B: TAS Cost Proposal	If the Pay Rate and Markup % columns are not removed from Attachment B, will the DOH define what is meant by the terms “Pay Rate” and “Markup %” referred to in Attachment B – Cost Proposal?	The Pay Rate should be inclusive of the Salary and Fringe Benefits for each staff title. The Markup % refers to the offeror’s anticipated markup, which should include but is not limited to anticipated overhead, indirect, administrative costs, travel, profit margin, and other miscellaneous costs of the offeror. The Bill Rate is the combination of the offeror’s Pay Rate and Markup %. The selected offeror will not be reimbursed for any costs outside of its submitted Attachment B - Cost Proposal REVISED V2. See Amendment #3 to RFP.
115	Attachment B: TAS Cost Proposal (Tab C of Cost Proposal)	The Year 1 Labor Rate (column B Rows 6-13) is missing the formula lookup to tab D and as a result, values from	See response to question #98.

#	Corresponding RFP Section	Question	Answer
		other pricing schedules are not reflected. Will the State provide updated Attachment B?	
116	Attachment B: TAS Cost Proposal	Section 6.3 Cost Proposal requests pay rates and mark up percentage but also indicates these rates are fully loaded rates. Pay rates and mark ups are highly proprietary information and considered Trade Secret information that can materially harm participating firms and may prevent firms with the national experience requested from responding. Would the State accept fully loaded, competitive rates instead that are typically provided for an engagement of this nature?	See response to question #111.
117	Attachments D.1 and D.2: TAS Staffing Tables	Would the Department consider an associate degree or equivalent work experience to be an acceptable substitute for a bachelor's degree?	<p>Bidders should provide staff to meet the targeted specification as described in revised Attachments D.1 and D.2. See Amendment #3 to the RFP.</p> <p>See the <u>revised</u> Attachment D.1 – TAS Staffing Table Key Staff Responsibility and Experience Descriptions REVISED V2, and Attachment D.2 – TAS Staffing Table Supplemental Staff Responsibility and Experience Descriptions REVISED V2.</p>
118	Attachments D.1 and D.2: TAS Staffing Tables	For the Data Scientist key staff, does the degree need to be in Data Science? Would a related degree or experience substitute?	<p>Bidders should provide staff to meet the targeted specification as described in revised Attachments D.1 and D.2. See Amendment #3 to the RFP.</p> <p>See the <u>revised</u> Attachment D.1 – TAS Staffing Table Key Staff Responsibility and Experience Descriptions REVISED V2, and Attachment D.2 – TAS Staffing Table Supplemental Staff Responsibility and Experience Descriptions REVISED V2.</p>
119	Attachments D.1: TAS Staffing Table Key Staff (Page 12 of Attachment)	<p>Would the Department consider the following revisions to the <u>REQUIRED</u> qualifications and experience for the <i>Data Scientist</i> key position? This revision will allow bidders the opportunity to expand the pool of qualified staff with a comparable mix of skills and experience to meet the needs of this role.</p> <p>A. Bachelor's Degree in Computer Science, Statistics, Mathematics, Data Analytics, or a related field, combined with relevant experience</p>	<p>Bidders should provide staff to meet the targeted specification as described in revised Attachments D.1 and D.2. See Amendment #3 to the RFP.</p> <p>See the <u>revised</u> Attachment D.1 – TAS Staffing Table Key Staff Responsibility and Experience Descriptions REVISED V2, and</p>

#	Corresponding RFP Section	Question	Answer
		<p>B. Ten (10) years of experience in data management and analysis, with at least five (5) years in a leadership role</p> <p>C. Seven (7) years of experience in designing and maintaining data infrastructure, with at least three (3) years in a lead role</p> <p>D. Two (2) years of experience in data security, privacy and compliance</p> <p>Two (2) years of hands-on experience with business intelligence/visualization tools (e.g., PowerBI, QlikView) or relevant programming languages (e.g., Python, R) for data analysis and visualization.</p>	Attachment D.2 – TAS Staffing Table Supplemental Staff Responsibility and Experience Descriptions REVISED V2.
120	Attachments D.2: TAS Staffing Table Key Staff (Page 17 of Attachment)	<p>A. States “Ten (10) or more years of training experience including five (5) or more years of supervisory experience.” And D. says “Three (3) years’ supervision experience.”</p> <p>Please define the difference between supervisory experience and supervision experience as required in A & D. If there is not a difference between the terms, then please clarify whether 3 or 5 years is required.</p>	<p>See Amendment #3 to the RFP.</p> <p>See the revised Attachment D.2– TAS Staffing Table Supplemental Staff Responsibility and Experience Descriptions REVISED V2.</p> <p>Item D is deleted for the Training Manager Labor Category.</p>
121	Attachment E: TAS Supplemental Staff SOW Template (Tab: Background & Instructions)	<p>Under the heading Purpose, there is reference to Attachment D.3 - TAS Staffing Table Third-Party Supplemental Staff.</p> <p>What are Third-Party Supplemental Staff?</p> <p>Please provide Attachment D.3 which was not included with the RFP.</p>	See Amendment #3 to the RFP.
122	Attachment L: Facility Requirements (Page 2 of Attachment)	For consistency across bidder responses and pricing, would the state suggest a minimum number of laptops to be purchased?	<p>The minimum number of laptops needed at contract start is 12 for TAS Key Staff and 35 for DOS staff. Bidder’s cost proposals will be based on 47 laptops.</p> <p>Please see Amendment #3.</p>
123	Attachment L: Facility Requirements (Page 3 of Attachment)	<p>Would the Department consider accepting the proposed revision below?</p> <p>9. The Contactor must provide security and safeguards to protect the Department and its contract employees from harm and to protect all equipment from unauthorized</p>	No. The Department will not accept this proposed revision.

#	Corresponding RFP Section	Question	Answer
		<p>access and harm. These measures must <u>may</u> include, but are not limited to:</p> <ul style="list-style-type: none"> a. Sufficient lighting b. Security patrols c. Security Access Reader Card System with magnetic locks monitored by security personnel, Request to Exit Devices, Sounders, etc., to make the system complete d. Outside surveillance cameras with recordings archived for fourteen (14) calendar days e. Recorded and supervised visitor access <p>Regular review and updating of access rights to the project site.</p>	
124	Attachment M: Division of Operations and Systems – Security and Privacy Requirements	<p>Will the Department consider deleting this attachment? Based on the description of the scope of work and the requirement to provide equipment, our organization understands that Attachment M is not applicable to this solicitation. If this is not the case we would respectfully request the opportunity to discuss the requirements with the Department.</p>	No.
125	Attachment N, Service Level Agreement (SLAs)	<p>Will the Department revise the Liquidated Damages (LD) provisions to include a notice to the contractor and a reasonable cure period for the contractor to take action to comply with the SLA before the LD is imposed?</p> <p>Will the Department include a financial cap or limit for each LD per month and an annual dollar cap for each/or all LDs to limit the financial risk to contractors?</p>	No.
126	Attachment N, Service Level Agreement (SLAs) (SLA – 01)	<p>Would the Department please consider changing the SLA Description noted in SLA - 01 from: "Time period to replace a staff member exceeds 45 business days." To instead read, "Time period to submit a replacement for a staff member to the Department for approval exceeds 45 business days."</p>	See Amendment #3 to the RFP.
127	Attachment N, Service Level Agreement (SLAs) (SLA – 12)	<p>This SLA is in relation to Transition: Annual Documentation Audit.</p> <p>Will the Department revise the Liquidated Damages (LD) provisions to include notice, request for corrective action</p>	No. The Department expects that the Documentation repository to be kept up to date. The accuracy of the repository's documents is a high priority.

#	Corresponding RFP Section	Question	Answer
		<p>and a reasonable cure period for the contractor to take action to comply with the SLA before the LD is imposed? The potential financial risk of the proposed LD could be very high given very high volume of documents in the repository and that the volume of documents will increase over time as the project/contract continues and expands. A remediation plan seems more appropriate to meet the intent of the SLA.</p>	
128	Attachment N, Service Level Agreement (SLAs)	<p>Would DOH be willing to work with Contractor to clarify certain aspects of the SLAs, including but not limited to, the inclusion of a commercially reasonable cap on monthly damages, clarification that Liquidated Damages would apply only in cases where the missed condition is fully within Contractor's control, and that any Liquidated Damages would be an exclusive remedy?</p>	<p>The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.</p>
129	Attachment O: TAS Strategic Management Plans (Page 5 of Attachment)	<p>Since the RFP does not require Organization Change Manager or Analyst as one of the Key Staff, may bidders propose that the initial MES Organizational Change Management Plan be developed and customized using an SOW with qualified Supplemental Staff under the appropriate OCM Labor Categories to make sure the plan includes best practices and standards which conform to Prosci or other commonly accepted organization change methodologies.</p>	<p>See response to question #40 and Amendment #3 to the RFP.</p>
130	Attachment 5: Guide to New York State DOH M/WBE Required Forms & Forms	<p>Some NYS agencies (such as ITS) have elaborated the "Description of Work" section of the MWBE Utilization form to include elements such as:</p> <ul style="list-style-type: none"> • "DIRECT (Spending directly fulfilling contract obligations) Description:" • "INDIRECT (Spending in support of company operations.) Description:" • "This is a Joint Venture, Teaming or Mentor-Protégé Agreement, or Similar arrangement, and as required the agreement or arrangement is included with this MWBE Utilization Plan for review and approval." <p>Are some or all these elements permissible in RFP #20179?</p>	<p>Yes. Bidders should describe how they plan to meet the M/WBE Goals based on eligible expenses per Article 15A.</p>

#	Corresponding RFP Section	Question	Answer
131	Attachment 5: Guide to New York State DOH M/WBE Required Forms & Forms	Can DOH describe the process for amending the MWBE utilization plan after contract commencement?	Bidders should use Form 2, in Attachment 5 to amend the MWBE goal.
132	Attachment 5: Guide to New York State DOH M/WBE Required Forms & Forms (Page 5 of Attachment)	Will the Department allow bidders to use only the cost of Key Staff and the cost of Additional Operations Costs from the cost proposal as the amount entered on Line#1 Total Dollar Value of the Proposed Bid on Attachment 5? The Total of the Cost Proposal is used for evaluation purposes only and is not guaranteed revenue. If the Department requires the Total of the Cost Proposal as the amount on Line#1 it will artificially inflate the M/WBE participation goal and make it very difficult for bidders to achieve the M/WBE goal. The primary way for bidders to meet the M/WBE goal is through hiring supplemental staff from M/WBE vendors. An artificially high MWBE target forces bidders to source nearly all staff from MWBE vendors which limits the pool of qualified candidates for Supplemental Staff. This will be detrimental to the Department if the TAS Vendor cannot source qualified supplemental through its Talent Acquisition recruiters or other non-M/WBE vendors.	Line #1 should represent the total dollar amount of the bid. In the event the bidder is unable to meet the goal Form 2 should be utilized to reduce along with submitting all good faith efforts.
133	RFP Attachment 8: DOH Agreement	As with many other NY State contracts, will the DOH consider adding a commercially reasonable limitation of liability, including a disclaimer of indirect, special and consequential damages?	See response to question #10.
134	RFP Attachment 8: DOH Agreement, Section 1: General Terms and Conditions (Page 13 of RFP)	Please confirm the maximum compensation for the Contract term as the value is not identified on the face page.	This is intentional. The total contract value will be contingent on the pricing submitted by the awarded bidder.
135	RFP Attachment 8: DOH Agreement, Section 1: General Terms and Conditions, Subsection D (Page 13 of RFP)	Would the Department consider revising this provision to allow modifications to the Contract subject to mutual agreement? To amend or exercise any renewal option of this Contract, the parties shall prepare new appendices, to the extent that any require modification, and a Contract Amendment	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification,

#	Corresponding RFP Section	Question	Answer
		<p>Form in the format provided by the DEPARTMENT (Appendix X). Any terms of this Contract not modified shall remain in effect for each PERIOD of the Contract. The Contract Amendment Form is subject to the written agreement of both parties. This Contract may not be amended orally. The CONTRACTOR shall not make any changes in the scope of work at any time without prior authorization in writing from the DEPARTMENT and without prior approval in writing of the amount of compensation for such changes.</p>	<p>should the Department determine that that constitutes the best interests of New York State.</p>
136	<p>RFP Attachment 8: DOH Agreement, Section I: General Terms and Conditions (Page 14 of Attachment)</p>	<p>Paragraph M states, "If the DEPARTMENT is of the opinion that the services required by the specifications cannot satisfactorily be performed because of insufficiency of personnel, the DEPARTMENT shall have the authority to require the CONTRACTOR to use such additional personnel, to take such steps necessary to perform the services satisfactorily at no additional cost to the DEPARTMENT."</p> <p>During Small Work Items and Project Work, progressive elaboration of scope may identify the need for additional staff. Consideration must be provided by the Department for the benefit of these additional staff to meet the requirements of this contract.</p> <p>Will the department revise this paragraph to read, "If the services required by the specifications cannot satisfactorily be performed because of insufficiency of personnel, the DEPARTMENT shall have the authority to require the CONTRACTOR to use such additional personnel, to take such steps necessary to perform the services satisfactorily in accordance with Section 4.3.2, Key and Supplemental Staff."</p>	<p>The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.</p>
137	<p>RFP Attachment 8: DOH Agreement, Section I: General Terms and Conditions, Subsection L (Page 14 of Attachment)</p>	<p>Would the Department consider accepting the proposed revision below?</p> <p>The CONTRACTOR shall have a representative to provide supervision of the work which CONTRACTOR employees are performing to ensure complete and satisfactory performance with the terms of this Contract.</p>	<p>The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification,</p>

#	Corresponding RFP Section	Question	Answer
		This representative shall also be authorized to receive and put into effect promptly all orders, directions and instructions from the DEPARTMENT. A confirmation in writing of such orders or directions will be given by the DEPARTMENT to the CONTRACTOR.	should the Department determine that that constitutes the best interests of New York State.
138	RFP Attachment 8: DOH Agreement, Section I: General Terms and Conditions, Subsection N (Page 14 of Attachment)	<p>Would the Department consider accepting the proposed revision below?</p> <p>The DEPARTMENT shall conduct any inspection at a time during normal business hours where the activities of the work under this Contract are taking place and in a manner so as not to unreasonably disrupt the CONTRACTOR'S business. During its inspection the DEPARTMENT may view and audit any materials related to substantiating invoices under this Contract.</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
139	RFP Attachment 8: DOH Agreement, Section II: Payment and Reporting (Page 15 Attachment)	<p>The last paragraph states, "Payment terms shall be:" The payment term is missing.</p> <p>Please confirm payment terms are net 30 days from receipt of monthly billing.</p>	See response to question #27.
140	RFP Attachment 8: DOH Agreement, Section III: Term and Termination (Page 16 of Attachment)	<p>Section III.C states that the Department will provide the Contractor at least 10 days' written notice of a Contract default.</p> <p>Would the Department please explicitly state that during such notice period, the Contractor will have the opportunity to cure such default?</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
141	RFP Attachment 8: DOH Agreement, Section III: Term and Termination (Page 16 of Attachment)	Please confirm the Contract term, which is not identified on the face page.	<p>The term of the agreement will be for a period of six (6) years commencing on the date shown on the Calendar of Events in Section 1.0. After the initial contract term expires, at the discretion of the Department, the contract may be extended, for up to one (1) additional four (4)-year renewal period by an amendment signed by both parties with all required approvals from the New York State Attorney General (AG) and the Office of the State Comptroller (OSC).</p> <p>Attachment 8 will be updated upon contract award.</p>

#	Corresponding RFP Section	Question	Answer
142	RFP Attachment 8: DOH Agreement, Section III: Term and Termination; Subsection C (Page 16 of Attachment)	<p>Section III.C does not include a statement for non-payment. Would the Department add the following termination language for non-payment?</p> <p>“If DEPARTMENT defaults in the payment when due of any amount payable under this Contract and does not cure the default within ten (10) days after receiving written notice of the default, then CONTRACTOR may, by giving further written notice to DEPARTMENT, terminate this Contract as of a date specified in the notice of termination.”</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
143	RFP Attachment 8: DOH Agreement, Section III: Term and Termination; Subsection C (Page 16 of Attachment)	<p>Would the Department consider the revision below, allowing the Contractor an opportunity to cure any noncompliance, consistent with Section III (E)?</p> <p>This Contract may be terminated by the DEPARTMENT for cause upon the failure of the CONTRACTOR to comply with the material 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 an opportunity to cure failure within thirty (30) business days. If the Contractor was unable to cure the failure, termination shall be effective thirty (30) 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 the effective date of termination.</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
144	RFP Attachment 8: DOH Agreement, Section III: Term and Termination; Subsection C (Page 16 of Attachment)	<p>Would the Department consider accepting the proposed revision below?</p> <p>C. This Contract may be terminated by the DEPARTMENT for cause upon the <u>material</u> failure of the CONTRACTOR to comply with the <u>material</u> terms and conditions of this Contract, including the attachments hereto, provided that the DEPARTMENT shall give the CONTRACTOR written notice via registered or certified</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.

#	Corresponding RFP Section	Question	Answer
		<p>mail, return receipt requested, or shall deliver same by hand-receiving CONTRACTOR'S receipt therefore, such written notice to specify the CONTRACTOR'S <u>alleged failure in reasonable detail</u> and the termination of this Contract <u>if CONTRACTOR fails to cure such alleged breach within the Cure Period</u>. Termination shall be effective <u>not less than ten (10) business days</u> from <u>CONTRACTOR's receipt of such notice</u>, <u>This notice shall provide Contractor with a reasonable opportunity to cure, which shall be at least ten (10) business days established by the receipt returned to the DEPARTMENT (the "Cure Period") if CONTRACTOR fails to cure the alleged material failure during the Cure Period</u>. The CONTRACTOR agrees to incur no new obligations nor to claim for any expenses made after receipt of the notification of termination, <u>provided that the CONTRACTOR will be compensated for any obligations or expenses CONTRACTOR incurs prior to the termination effective date</u>.</p>	
145	RFP Attachment 8: DOH Agreement, Section III: Term and Termination; Subsection D (Page 16 of Attachment)	<p>Would the Department consider accepting the proposed deletion below?</p> <p>This Contract may be deemed terminated immediately at the option of the DEPARTMENT upon the filing of a petition in bankruptcy or insolvency, by or against the CONTRACTOR.</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
146	RFP Attachment 8: DOH Agreement, Section III: Term and Termination; Subsection E (Page 16 of Attachment)	Would the Department consider deleting this section since it's repetitive of Section III (C)?	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
147	RFP Attachment 8: DOH Agreement, Section III: Term and Termination;	Would the Department consider accepting the proposed revision below?	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders

#	Corresponding RFP Section	Question	Answer
	Subsection E (Page 16 of Attachment)	<p>E. 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 to the satisfaction of the DEPARTMENT. In the event of such cessation of work, and where the CONTRACTOR has been afforded an opportunity to cure its inability to adequately perform within a reasonable time as specified by the DEPARTMENT, but not to <u>be less than ten (10) business days or exceed 30 days</u>, 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 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>	must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
148	RFP Attachment 8: DOH Agreement, Section III: Term and Termination (Page 16 of Attachment)	<p>Paragraph F states, "This Contract may be canceled at any time by the DEPARTMENT 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>Comment: The Contractor may incur 3rd party vendor and subcontractor termination costs resulting from the Department's termination of the Contract. Therefore, we request that the following sentence be added to Paragraph F: "Department agrees to pay Contractor for 3rd party vendor and subcontractor termination costs resulting from the Department's cancellation of the Contract."</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
149	RFP Attachment 8: DOH Agreement, Section III: Term and Termination, Subsection G.1 (Page 17 of Attachment)	<p>Would the Department consider accepting the proposed revision below?</p> <p>G. Provisions Upon Default 1. In the event that the CONTRACTOR, through any cause, fails to perform any of the terms, covenants or</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification,

#	Corresponding RFP Section	Question	Answer
		<p>promises of this Contract, the DEPARTMENT thereupon shall have the right to terminate this Contract by giving notice in writing of the fact and date of such termination to the CONTRACTOR <u>"The notice shall provide Contractor with a reasonable opportunity to cure, which shall be at least ten (10) business days. If 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."</u></p>	<p>should the Department determine that that constitutes the best interests of New York State.</p>
150	<p>RFP Attachment 8: DOH Agreement, Section III: Term and Termination, Subsection G.2 (Page 17 of Attachment)</p>	<p>Would the Department consider deleting section III (G) 1 since it's a reiteration of III(C)? and would the Department consider accepting the proposed revisions to Section III(G) 2 below?</p> <p>2. 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 by giving notice in writing of the fact and date of such termination to the CONTRACTOR. The CONTRACTOR shall receive compensation in accordance with the Contract for such services performed by the CONTRACTOR prior to the effective date of termination of this Contract, such compensation shall be subject to audit by the State Comptroller.</p>	<p>The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.</p>
151	<p>RFP Attachment 8: DOH Agreement, Section III: Term and Termination, Subsection G.2, Paragraph 1 (Page 17 of Attachment)</p>	<p>Will DOH consider revising this section so that the determination to terminate the Agreement and to remit payment to Contractor is based upon objective standards, such as material compliance with the specifications of the contract, as opposed to subjective termination/payment provisions and also add a dispute right for Contractor related to any remedies?</p>	<p>The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.</p>
152	<p>RFP Attachment 8: DOH Agreement, Section III: Term and Termination, Subsection H.2 (Page 17 of Attachment)</p>	<p>Would the Department consider the proposed alternative language?</p> <p>Contractor shall be paid in accordance with this Contract for all services delivered to the DEPARTMENT prior to termination.</p>	<p>The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification,</p>

#	Corresponding RFP Section	Question	Answer
			should the Department determine that that constitutes the best interests of New York State.
153	Attachment 8: DOH Agreement, Section IV: Contract Insurance Requirements, Subsection A (Page 18 of Attachment)	<p>Would DOH considering modifying the 1st sentence as follows:</p> <p>“Prior to the start of work under this Contract, the CONTRACTOR shall procure at its sole cost and expense, and shall maintain in force at all times during the term of this Contract, insurance of the types and in the amounts as herein below set forth, written by companies authorized by the New York State Department of Financial Services to issue insurance in the State of New York (“admitted” carriers) with an A.M. Best Company rating of “A-” <u>or better or the equivalent rating from another nationally recognized ratings provider</u> or as acceptable to the DEPARTMENT.”</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
154	Attachment 8: DOH Agreement, Section IV: Contract Insurance Requirements, Subsection A (Page 18 of Attachment)	<p>Would the Department consider accepting the proposed revision below?</p> <p>A. Prior to the start of work under this Contract, the CONTRACTOR shall procure at its sole cost and expense, and shall maintain in force at all times during the term of this Contract, insurance of the types and in the amounts as herein below set forth, written by companies authorized by the New York State Department of Financial Services to issue insurance in the State of New York (“admitted” carriers) with an A.M. Best Company rating of “A-” or better or as acceptable to the DEPARTMENT. Before commencing performance of the work, the CONTRACTOR shall deliver to the DEPARTMENT evidence of such policies in <u>at the form acceptable Certificates Of Insurance</u> to the DEPARTMENT. These policies must be written in accordance with the requirements of the paragraphs below, as applicable. The DEPARTMENT may, at its sole discretion, accept <u>policies certificates</u> of insurance written by a non-authorized carrier or carriers when <u>Certificates of Insurance and/or other policy documentation is</u> are accompanied by a completed</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.

#	Corresponding RFP Section	Question	Answer
		Excess Lines Association of New York (ELANY) Affidavit; provided that nothing herein shall be construed to require the DEPARTMENT to accept insurance placed with a non-authorized carrier under any circumstances.	
155	Attachment 8: DOH Agreement, Section IV: Contract Insurance Requirements (Pages 18-19 of Attachment)	Is it possible for DOH and contractor to leverage contractual insurance requirements previously negotiated and currently included within an existing contract between DOH and contractor?	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
156	Attachment 8: DOH Agreement, Section IV: Contract Insurance Requirements (Pages 18-19 of Attachment)	Would the Department consider accepting the proposed revision below? 2. Policy Forms Written proof of this extended reporting period must be provided to the <u>DEPARTMENT in the form of a Certificate of Insurance</u> prior to the policy's expiration or cancellation.	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
157	Attachment 8: DOH Agreement, Section IV: Contract Insurance Requirements, Subsection B.3, Paragraph 1 (Pages 18-19 of Attachment)	Would DOH considering modifying the 1st sentence as follows: "CONTRACTOR shall provide <u>an industry standard ACORD</u> Certificate or Certificates of Insurance, in a form satisfactory to the DEPARTMENT, before commencing any work under this Contract."	No. The Department does not agree to this modification.
158	Attachment 8: DOH Agreement, Section IV: Contract Insurance Requirements, Subsection B.3,	Would the Department consider accepting the proposed revision below? Certificates of Insurance/Notices.	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and

#	Corresponding RFP Section	Question	Answer
	Paragraph 1 (Pages 18-19 of Attachment)	3. Unless otherwise agreed, policies 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. 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 <u>certificates</u> of insurance not previously provided by the insurance carrier as true and complete.	conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
159	Attachment 8: DOH Agreement, Section IV: Contract Insurance Requirements (Pages 18-19 of Attachment)	<p>Would the Department consider accepting the proposed revision below?</p> <p>Certificates of Insurance shall:</p> <p>b. Disclose any deductible, self-insured retention, aggregate limit or any exclusion to the policy that materially changes the coverage required by this Contract</p> <p><u>Disclose any aggregate limit for policies other than Professional Liability or any exclusion to the policy that materially changes the coverage required by this Contract.</u></p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
160	Attachment 8: DOH Agreement, Section IV: Contract Insurance Requirements, Subsection B.3 (Pages 18-19 of Attachment)	<p>Would the Department consider accepting the proposed revision below?</p> <p>Unless otherwise agreed, policies shall be written so as to include a provision that the policy will not be cancelled, or not renewed without written notice except for non-payment as required by law to the DEPARTMENT at the address specified above in this paragraph. 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 insurance certificates not previously provided, certified by the insurance career as true and complete.</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
161	Attachment 8: DOH Agreement, Section IV: Contract Insurance Requirements,	Would the DOH considering modifying the 2nd paragraph as follows:	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders

#	Corresponding RFP Section	Question	Answer
	Subsection B.3, Paragraph 2 (Pages 18-19 of Attachment)	<p>“Unless otherwise agreed, policies shall be written so as to include a provision that the policy will not be canceled, <u>adversely</u> 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 <u>unless replacement coverage meeting the terms and conditions hereunder is obtained without lapse. 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 not previously provided, certified by the insurance carrier as true and complete.</u></p>	must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
162	Attachment 8: DOH Agreement, Section IV: Contract Insurance Requirements, Subsection B.3.b, Paragraph 1 (Page 19 of Attachment)	Would DOH consider deleting this provision?	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
163	Attachment 8: DOH Agreement, Section IV: Contract Insurance Requirements, Subsection B.4, Paragraph 1 (Page 19 of Attachment)	<p>Would the DOH considering modifying the 1st sentence as follows:</p> <p>“Primary Coverage. The liability and protective liability insurance policies shall provide primary and non-contributory coverage to the DEPARTMENT, <u>with respect to the Department’s additional insured status</u>, for any claim arising from the CONTRACTOR’S Work under this CONTRACT, or as a result of the CONTRACTOR’S activities.”</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
164	Attachment 8: DOH Agreement, Section IV: Contract Insurance Requirements, Subsection B.5, Paragraph 1 (Pages 19-20 of Attachment)	Would the DOH considering changing the requirement in the 1st sentence from two weeks to one week?	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.

#	Corresponding RFP Section	Question	Answer
165	Attachment 8: DOH Agreement, Section IV: Contract Insurance Requirements, Subsection B.5 (Pages 19-20 of Attachment)	<p>Would the Department consider accepting the proposed revision below?</p> <p>Upon request by the DEPARTMENT, the CONTRACTOR shall provide to the department 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. Certificates of Insurances/Notices of this Section. If, at any time during the term of this Contract, the coverage provisions and limits of the policies required herein do not meet the provisions and limits set forth in this Contract or proof thereof is not provided to the DEPARTMENT, the CONTRACTOR shall immediately cease work under this Contract. The CONTRACTOR shall not resume work under this Contract until authorized to do so by the DEPARTMENT. Any delay, time lost, or additional cost incurred as a result of the CONTRACTOR not having insurance required by this Contract or not providing proof of same in a form acceptable to the DEPARTMENT shall not give rise to a delay claim or any other claim against the DEPARTMENT. Should the CONTRACTOR fail to provide or maintain any insurance required by this Contract, or proof thereof is not provided to the DEPARTMENT, the DEPARTMENT may withhold further Contract payments, treat such failure as a breach or default of the Contract, and/or, after providing written notice to the CONTRACTOR, require the Surety, if any, to secure appropriate coverage and/or purchase insurance complying with this Contract and charge back such purchase to the CONTRACTOR.</p>	<p>The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.</p>
166	Attachment 8: DOH Agreement, Section IV: Contract Insurance Requirements, Subsection B.6 (Page 20 of Attachment)	<p>Would the Department consider accepting the proposed revision below?</p> <p>6. Self-Insured Retention/Deductibles. Certificates of Insurance must indicate the applicable deductible/self-insured retentions above \$100,000.00, which are subject to approval from the DEPARTMENT. Additional surety/security may be required in certain circumstances.</p>	<p>The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.</p>

#	Corresponding RFP Section	Question	Answer
		The CONTRACTOR shall be solely responsible for all claim expenses and loss payments within the deductible or self-insured retention.	
167	Attachment 8: DOH Agreement, Section IV: Contract Insurance Requirements, Subsection B.6, Paragraph 1 (Page 20 of Attachment)	Would DOH consider deleting the first sentence?	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
168	Attachment 8: DOH Agreement, Section IV: Contract Insurance Requirements, Subsection B.6 (Page 20 of Attachment)	<p>Would the Department consider accepting the proposed revision below?</p> <p>6. Self-Insured Retention/Deductibles . <u>Additional surety/security may be required in certain circumstances. The CONTRACTOR shall be solely responsible for all claim expenses and loss payments within the deductible or self-insured retention. Such surety or security shall be appropriate for and commensurate with the type of risk (s) reasonably identified by the DEPARTMENT. Certificates of Insurance must indicate the applicable deductible/self-insured retentions above \$100,000.00, which are subject to approval from the DEPARTMENT. Additional surety/security may be required in certain circumstances. The CONTRACTOR shall be solely responsible for all claim expenses and loss payments within the deductible or self-insured retention.</u></p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
169	Attachment 8: DOH Agreement, Section IV: Contract Insurance Requirements (Pages 18-19 of Attachment)	<p>Paragraph B, Conditions Applicable to Insurance states, "All policies of insurance required by the Contract must meet the following requirements:"</p> <p>In lieu of "All policies" can the Department specify the following: "Commercial General Liability, Commercial Automobile Liability, and Umbrella Liability policies must be written on an occurrence basis."</p> <p>Item 3 states, "In addition, if required by the DEPARTMENT, the CNTRACTOR shall deliver to the</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.

#	Corresponding RFP Section	Question	Answer
		<p>DEPARTMENT within forty-five (45) days of such request a copy of any or all policies of insurance not previously provided, certified by the insurance carrier as true and complete.”</p> <p>Due to the highly confidential nature of our company’s insurance policies, we do not share our insurance policies with clients, therefore will the Department please strike this requirement?</p> <p>NOTE: In lieu of the policies, we can provide a certificate of insurance.</p> <p>Will the Department please revise Item 3.a to read as follows: “Be in the form approved by the Department; such approval will not be unreasonably withheld”.</p> <p>Will the Department please revise the first sentence of Item 4 to specifically read as follows: “Commercial General Liability, Commercial Automobile Liability and Umbrella Liability insurance policies shall provide primary and non-contributory coverage to the DEPARTMENT for claims arising from the CONTRACTOR’S Work under this CONTRACT...”</p>	
170	Attachment 8: DOH Agreement, Section IV: Contract Insurance Requirements (Pages 19-20 of Attachment)	<p>Will the Department please revise the first sentence of Item 5 to read as follows: “At least two weeks prior to the expiration of any policy required by this Contract, the Contractor shall endeavor to provide evidence of renewal or replacement policies of insurance, in the form of a Certificate of Insurance, with terms no less...”</p> <p>Our company policy does not allow clients to dictate or approve the deductibles that we carry under our policies of insurance. Therefore, will the Department please revise the first sentence of Item 6 to read as follows: “Certificates of Insurance must indicate the applicable deductible/self-insured retentions above \$100,000.00.”, and delete “which are subject to approval by the DEPARTMENT.”</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
171	Attachment 8: DOH Agreement, Section IV: Contract Insurance	Bullet (b) states, “b. independent contractors/subcontractors.”	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the

#	Corresponding RFP Section	Question	Answer
	Requirements (Page 21 of Attachment)	<p>Our company's insurance policies do not provide insurance coverage for our independent contractors and subcontractors. Therefore, we request that paragraph (b) be deleted.</p> <p>If subcontractors are retained by our company to provide services, we require subcontractors to maintain insurance appropriate to each subcontractor's activities and according to flow-down insurance requirements, if any, in amounts proportional to the subcontractor's work or commensurate with the amount of risk under the contract.</p> <p>Bullet (c) states, "c. CG 25 03 11 85 or an equivalent – Designated Construction Projects(s) general aggregate limit (only required for construction Contracts)."</p> <p>Since this ISO form does not apply to the RFP's scope of services, will the Department consider striking this bullet?</p>	<p>best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.</p>
172	Attachment 8: DOH Agreement, Section IV: Contract Insurance Requirements (Page 21 of Attachment)	<p>Would DOH consider revising Section IV.C.3 (2nd paragraph) as follows:</p> <ul style="list-style-type: none"> a. premises liability; b. <u>vicarious liability</u> for independent contractors/subcontractors; c. blanket Contractual liability, including tort liability of another assumed in a Contract <u>pursuant to policy terms and conditions</u>; d. defense and/or indemnification obligations, including obligations assumed under this Contract; e. cross liability for additional insureds; f. products/completed operations for a term of no less than 3 years, commencing upon acceptance of the work, as required by this Contract <u>subject to continued commercial availability</u>; g. explosion, collapse, and underground hazards; h. CONTRACTOR means and methods, <u>if applicable</u>; i. liability resulting from Section 240 or Section 241 of the New York State Labor Law; and j. Cybersecurity Liability 	<p>The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.</p>
173	Attachment 8: DOH Agreement, Section IV: Contract Insurance	<p>Would DOH considering revising the 5th paragraph of Section IV.C.3 as follows:</p>	<p>The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the</p>

#	Corresponding RFP Section	Question	Answer
	Requirements (Page 22 of Attachment)	"Policies shall name the State of New York as Additional Insured <u>with respect to Contractor's acts or omissions in performance under this Agreement</u> , and such coverage shall be extended to afford Additional Insured status to those entities during the Products/Completed Operations term."	best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
174	Attachment 8: DOH Agreement, Section IV: Contract Insurance Requirements, Subsection C.3, Paragraph 1 (Pages 22-23 of Attachment)	<p>Would the Department consider accepting the proposed revision below?</p> <p>3. Commercial General Liability For work to be performed in New York State, the CONTRACTOR shall provide and maintain Commercial General Liability Insurance (CGL) covering the liability of the CONTRACTOR for bodily injury, property damage, and personal/advertising injury arising from all work and operations under this Contract, using form CG 00 01 12 07 or a policy providing equivalent coverage. The limits under such policy shall not be less than the following:</p> <p><u>Coverage shall include, if applicable, the following:</u> j. Cybersecurity Liability.</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
175	Attachment 8: DOH Agreement, Section IV: Contract Insurance Requirements, Subsection C.4, Paragraph 1 (Pages 22-23 of Attachment)	<p>Would DOH considering revising the 2nd sentence as follows:</p> <p>"Such policy shall have a combined single limit for Bodily Injury and Property Damage of at least one million dollars and shall name the State of New York as additional insured <u>with respect to Contractor's acts or omissions in performance under this Agreement.</u>"</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
176	Attachment 8: DOH Agreement, Section IV: Contract Insurance Requirements, Subsection C.5 (Page 23 of Attachment)	<p>Would DOH considering adding the clause as follows:</p> <p><u>Limitation of Liability:</u> <u>Except as otherwise set forth in Sections IX. J. and K., the Indemnification Provisions of the New York State Health Department Contract, the limit of liability shall be as follows:</u></p>	See response to question #10.

#	Corresponding RFP Section	Question	Answer
		<p><u>Contractor's liability for any claim, loss or liability arising out of, or connected with the Products and services provided, and whether based upon default, or other liability such as breach of contract, warranty, negligence, misrepresentation or otherwise, shall in no case exceed direct damages in: (i) an amount equal to two (2) times the original contract value exclusive of renewals provided.</u></p>	
177	Attachment 8: DOH Agreement, Section VIII: Subcontracting, Subsection D (Pages 25-26 of Attachment)	<p>Would the Department consider accepting the proposed deletion below (since subcontract agreements may contain confidential information)?</p> <p>All subcontracts shall be in writing and shall contain provisions which are functionally identical to and consistent with the provisions of this Contract, including, but not limited to, the body of this Contract, Appendix A - Standard Clauses for New York State Contracts and, if applicable, Appendix B. Unless waived in writing by the DEPARTMENT, all subcontracts between the CONTRACTOR and subcontractors shall expressly name the DEPARTMENT as the sole intended third party beneficiary of such subcontract.</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
178	Attachment 8: DOH Agreement, Section VIII: Subcontracting, Subsection E (Page 26 of Attachment)	Would the Department consider accepting the deletion of this section since subcontract agreements may contain confidential information?	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
179	Attachment 8: DOH Agreement, Section VIII: Subcontracting, Subsection F (Page 26 of Attachment)	<p>Would the Department consider accepting the proposed revision below?</p> <p>The CONTRACTOR shall give the DEPARTMENT notice in writing of the initiation of any legal action or suit which relates in any way to a subcontract with a subcontractor or which may affect the performance of the CONTRACTOR'S duties under the Contract. Any</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.

#	Corresponding RFP Section	Question	Answer
		subcontract shall not relieve the CONTRACTOR in any way of any responsibility, duty and/or obligation of this Contract.	
180	Attachment 8: DOH Agreement, Section IX: General Specifications (Page 31 of Attachment)	<p>Large, well-managed, reputable contractors require a reasonable limitation of liability clause in their contracts. Section IX.J of the DOH Contract includes the State's standard indemnification but does not include a clause similar to the State's standard limitation of liability clause, as previously provided in their statewide "OGS Backdrop" contracts.</p> <p>Would the Department, therefore, please include the following standard limitation of liability clause immediately following the Section IX.J indemnification clause as follows?</p> <p>"For all other claims against the Contractor, and regardless of the basis on which the claim is made, Contractor shall be fully liable for the actions of its agents, employees, partners or subcontractors and such liability for direct damages under the Contract shall not exceed the greater of one hundred thousand dollars (\$100,000), the dollar amount of the applicable SOW or two (2) times the charges rendered by the Contractor under the applicable SOW. Unless otherwise specifically enumerated herein, Contractor shall not be liable for consequential, indirect, special or economic consequential damages, even if Contractor has been advised of the possibility of such damages. Contractor shall not be responsible for loss of records or data unless the Contractor is required to back-up the records or data as a deliverable."</p>	See response to question #10.
181	Attachment 8: DOH Agreement, Section IX: General Specifications; Subsection A (Page 26 of Attachment)	<p>Would the Department consider accepting the proposed revision below?</p> <p>The work shall be commenced and shall be actually undertaken within such time as the DEPARTMENT may direct by notice, whether by mail, e-mail, or other writing, whereupon the undersigned will give continuous attention to the work as directed, to the end and with the intent that the work shall be completed within such reasonable time</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.

#	Corresponding RFP Section	Question	Answer
		or times, as the case may be, as the parties may agree to in writing.	
182	Attachment 8: DOH Agreement, Section IX: General Specifications; Subsection B (Page 26 of Attachment)	<p>Would the Department consider accepting the proposed revisions below?</p> <p>The CONTRACTOR will be required to complete the entire work or any part thereof as the case may be, in accordance with the material specifications and pursuant to this Contract.</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
183	Attachment 8: DOH Agreement, Section IX: General Specifications; Subsection E (Pages 28-29 of Attachment)	<p>Would the Department consider adding the following to the end of this section?</p> <p>6. CONTRACTOR shall retain title, ownership, and interest in any intellectual property developed prior to the term of the Contract.</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
184	Attachment 8: DOH Agreement, Section IX: General Specifications; Subsection F (Page 29 of Attachment)	<p>Would the Department consider making this section mutually applicable?</p> <p>Each party, its officers, agents and employees and subcontractors shall treat all information which is obtained by it under this CONTRACT from the other party, as confidential information to the extent required by the laws and regulations of the United States and laws and regulations of the State of New York.</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
185	Attachment 8: DOH Agreement, Section IX: General Specifications; Subsection G.2 (Pages 30-31 of Attachment)	Would the Department consider accepting the deletion of this section or modification to better suit the products and services provided pursuant to the RFP?	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
186	Attachment 8: DOH Agreement, Section IX: General Specifications;	<p>Would the Department consider accepting the proposed revision below?</p> <p>All products supplied pursuant to this Contract shall meet applicable local, state and federal regulations, guidelines</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and

#	Corresponding RFP Section	Question	Answer
	Subsection H (Page 30 of Attachment)	and action levels for lead as they exist at the time of the DEPARTMENT'S acceptance of this Contract.	conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
187	Attachment 8: DOH Agreement, Section IX: General Specifications; Subsection I.2 (Page 30 of Attachment)	<p>Would the Department consider accepting the proposed revision below?</p> <p>2. Suspension of Work (for Non-Responsibility): The Commissioner of Health or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the CONTRACTOR. In the event of such suspension, the CONTRACTOR will be given written notice outlining the particulars of such suspension. Upon issuance receipt of such notice, the CONTRACTOR must comply with the terms of the suspension order. Contract activity may resume at such time as the Commissioner of Health or his or her designee issues a written notice authorizing a resumption of performance under this Contract. <u>In the event that the DEPARTMENT (or the Commissioner of Health or his or her designee) suspends CONTRACTOR's provision of the services under this Contract for any reason, during the suspension, CONTRACTOR and the DEPARTMENT shall jointly attempt to, (a) utilize its labor and equipment in such a manner as to minimize costs associated with suspension, or (b) re-assign CONTRACTOR's resources to existing other projects, provided that the final determination is made by the DEPARTMENT in its reasonable discretion. Once the suspension has lasted thirty (30) days in duration, the DEPARTMENT must notify CONTRACTOR in writing on the thirty-first day of the suspension whether the DEPARTMENT requires the relevant CONTRACTOR personnel to remain available and able to return to the services within three (3) business days' notice. If the DEPARTMENT elects to require the CONTRACTOR personnel to remain available, then the DEPARTMENT will pay CONTRACTOR an amount equal to seventy percent (70%) of the amount set forth for the applicable role in the rate card as if such CONTRACTOR personnel</u></p>	<p>The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.</p>

#	Corresponding RFP Section	Question	Answer
		<p><u>were performing the services starting on the thirty-first (31) day of the suspension and continuing for the remainder of the time of the suspension. If, on the thirty-first (31) day, the DEPARTMENT permits the reassignment by CONTRACTOR of the applicable CONTRACTOR personnel but the DEPARTMENT re-instates the services at some later time, the DEPARTMENT will give CONTRACTOR written notice of such re-instatement at least fourteen (14) calendar days prior to such re-instatement so that CONTRACTOR is able to assign a resource to the services upon the recommencement of the previously suspended services.</u></p>	
188	Attachment 8: DOH Agreement, Section IX: General Specifications; Subsection I.3 (Pages 30-31 of Attachment)	<p>Would the Department consider accepting the proposed revision below?</p> <p>Termination (for Non-Responsibility): Upon written notice to the CONTRACTOR, and a reasonable opportunity to be heard with appropriate DEPARTMENT officials or staff, this Contract may be terminated by Commissioner of Health or his or her designee where the CONTRACTOR is determined by the Commissioner of Health or his or her designee to be non-responsible. In such event, the Commissioner of Health or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
189	Attachment 8: DOH Agreement, Section IX: General Specifications; Subsection I.3 (Pages 30-31 of Attachment)	<p>Would the Department consider accepting the proposed revision below?</p> <p>3. Termination (for Non-Responsibility): Upon written notice to the CONTRACTOR, and a reasonable opportunity to be heard with appropriate DEPARTMENT officials or staff, this Contract may be terminated by Commissioner of Health or his or her designee at the CONTRACTOR'S expense where the CONTRACTOR is determined by the Commissioner of Health or his or her designee to be non-responsible. In such event, the Commissioner of Health or his or her designee may complete the contractual requirements in any manner he</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.

#	Corresponding RFP Section	Question	Answer
		or she may deem advisable and allowed under applicable law and pursue available legal or equitable remedies for breach.	
190	Attachment 8: DOH Agreement, Section IX: General Specifications; Subsection J, Paragraph 1 (Page 31 of Attachment)	Will DOH consider changes to the indemnity which have been acceptable and agreed to by many other NY State agencies such as limiting the indemnity to third party claims for (a) bodily injury and physical damage to real or tangible personal property to the extent directly and proximately caused by the vendor, and (b) certain infringements by the deliverables of third party intellectual property rights?	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
191	Attachment 8: DOH Agreement, Section IX: General Specifications; Subsection J (Page 31 of Attachment)	<p>Would the Department consider accepting the proposed revision below?</p> <p><u>Indemnification</u> CONTRACTOR shall be fully liable for the actions of its agents, employees, partners or <u>subcontractors in their performance under this Contract</u> and shall fully indemnify, defend, and hold harmless the DEPARTMENT from suits, actions, damages and costs of every name and <u>description brought by a third party against the DEPARTMENT to the extent directly caused by</u> relating to personal injury and damage to real or personal tangible and intellectual property, caused by any intentional act or negligence of CONTRACTOR, its agents, employees, partners or subcontractors, without limitation in their performance under this Contract; 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 or its agents, employees, partners or subcontractors. <u>The CONTRACTOR's obligations under the foregoing with respect to any legal action are contingent upon the DEPARTMENT giving the CONTRACTOR: (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at CONTRACTOR's sole expense, and (3) assistance in defending the action at CONTRACTOR's sole expense. The CONTRACTOR shall not be liable for any cost, expense, or compromise incurred or made by</u></p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.

#	Corresponding RFP Section	Question	Answer
		the DEPARTMENT in any legal action without the <u>CONTRACTOR's prior written consent, which shall not be unreasonably withheld.</u>	
192	Attachment 8: DOH Agreement, Section IX: General Specifications; Subsection J (Page 31 of Attachment)	<p>Would the Department consider accepting the proposed revision below to remove repetitive language?</p> <p>CONTRACTOR shall 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>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
193	Attachment 8: DOH Agreement, Section IX: General Specifications; Subsection K.1 (Page 31 of Attachment)	<p>Would the Department consider accepting the proposed revisions below?</p> <p>The CONTRACTOR will also indemnify and hold the DEPARTMENT harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities and costs that may be finally assessed against the DEPARTMENT in any action for infringement of a United States Letter Patent, or of any copyright, trademark, trade secret or other third party proprietary right except to the extent such claims arise from the DEPARTMENT'S gross negligence or willful misconduct, provided that the DEPARTMENT shall give CONTRACTOR: (a) prompt written notice of any action, claim or threat of infringement suit, or other suit, (b) the opportunity to take over, settle or defend such action, claim or suit, and (c) assistance in the defense of any such action.</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
194	Attachment 8: DOH Agreement, Section IX: General Specifications;	Would the Department consider accepting the proposed revisions below?	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders

#	Corresponding RFP Section	Question	Answer
	Subsection K.1 (Page 31 of Attachment)	<p>1. The CONTRACTOR will also indemnify, defend, and hold the DEPARTMENT harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities and costs that may be finally assessed against the DEPARTMENT in any action brought against the DEPARTMENT by a third party to the extent directly caused by a Deliverable's infringement of a United States Letter Patent, or of any United States copyright, trademark, trade secret or other third party United States proprietary right except to the extent such claims arise from (i) the DEPARTMENT'S gross negligence or willful misconduct, (ii) use of the Deliverables other than in accordance with applicable documentation or instructions supplied by CONTRACTOR or other than for the DEPARTMENT's internal business purposes; (iii) any alteration, modification or revision of the Deliverables not expressly agreed to in writing by CONTRACTOR; (iv) the combination of the Deliverables with materials not supplied or approved by CONTRACTOR; or (v) CONTRACTOR's compliance with the DEPARTMENT's specifications or requirements, including, but not limited to the required use of tangible or intangible items provided by the DEPARTMENT provided that CONTRACTOR's obligations under the foregoing with respect to any legal action are contingent upon the DEPARTMENT giving the CONTRACTOR: (a) prompt written notice of any action, claim or threat of infringement suit, action, claim, or other suit, (b) the opportunity to take over, settle or defend such action, claim or suit at CONTRACTOR'S sole expense, and (c) assistance in the defense of any such action at the expense of CONTRACTOR. The CONTRACTOR shall not be liable for any cost, expense, or compromise incurred or made by the DEPARTMENT in any legal action without the CONTRACTOR's prior written consent, which shall not be unreasonably withheld.</p>	must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
195	Attachment 8: DOH Agreement, Section IX: General Specifications;	Would the Department consider accepting the proposed revisions below?	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders

#	Corresponding RFP Section	Question	Answer
	Subsection K.2 (Page 31 of Attachment)	<p>2. If usage of a Deliverable shall be enjoined or held to <u>constitute an infringement</u> for any reason or if CONTRACTOR believes that it a Deliverable may be enjoined <u>or held to constitute an infringement</u>, CONTRACTOR shall have the right may, within a <u>reasonable time</u>, at its own expense and sole discretion: (a) to procure for the DEPARTMENT the right to continue Usage use of the infringing item; or (b) to modify the service or Product so that Usage becomes non-infringing , and is of at least equal quality and performance; or (c) to replace, at CONTRACTOR's sole expense, said service or Product or parts(s) thereof, as applicable, such item with substantially equivalent non-infringing item or modify service or Product of at least equal quality and performance such item so that it becomes non-infringing. If the above remedies are not available, the parties shall terminate this Contract, in whole or in part as necessary and applicable, provided the DEPARTMENT is given a <u>In the event CONTRACTOR is, in its reasonable discretion, unable to perform either of the options described in clauses (a) or (b) above, the DEPARTMENT shall return the allegedly infringing item to CONTRACTOR, and CONTRACTOR's sole liability shall be to refund for any amounts paid to CONTRACTOR for such item; provided that the foregoing shall not be construed to limit CONTRACTOR's indemnification obligation set forth in Section IX(L)(1). The provisions of these Sections IX(L)(1) and (2) state CONTRACTOR's entire liability and the DEPARTMENT's sole and exclusive remedy with respect to any infringement or claim of infringement period during which Usage was not feasible.</u></p>	must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
196	Attachment 8: DOH Agreement, Section IX: General Specifications; Subsection K.3 (Page 31 of Attachment)	<p>Would the Department consider the addition of an industry standard Limitation of Liability Provision?</p> <p>Notwithstanding the forgoing, CONTRACTOR'S cumulative liability for damages to the DEPARTMENT for all claims, suits, actions, damages and costs arising out of performance of services of this Contract (including without</p>	See response to question #10.

#	Corresponding RFP Section	Question	Answer
		<p>limitation, for breach of contract, breach of warranty, for its indemnification obligations, negligence or other tort claim) shall not exceed the amount of DEPARTMENT'S actual direct damages up to the amount that the DEPARTMENT has paid the CONTRACTOR under this Contract. In no event shall the CONTRACTOR be liable, whether liability arises in contract, tort or otherwise, for any consequential, incidental, indirect, special, exemplary, multiple or punitive damages, regardless of whether it has been advised of the possibility of such damages, including but not limited to any damages claimed by a third party.</p>	
197	Attachment 8: DOH Agreement, Section IX: General Specifications; Subsection L.1 (Pages 31-32 of Attachment)	<p>Would the Department consider accepting the proposed mutual language below?</p> <p>A force majeure occurrence is an event or effect that cannot be reasonably anticipated or controlled by the DEPARTMENT or the CONTRACTOR, its subcontractors, or others under the CONTRACTOR'S or its subcontractor's control. Force majeure includes, but is not limited to, acts of God, acts of war, acts of public enemies, strikes, fires, explosions, actions of the elements, floods, or other similar causes beyond the control of the CONTRACTOR or the DEPARTMENT in the performance of this Contract where non-performance, by exercise of reasonable diligence, cannot be prevented. Each party shall provide the other party with written notice of any force majeure occurrence as soon as the force majeure occurrence giving rise to a delay under this Contract is known.</p>	<p>The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.</p>
198	Attachment 8: DOH Agreement, Section IX: General Specifications; Subsection L.3 (Page 32 of Attachment)	<p>Would the Department consider accepting the proposed revision below?</p> <p>Notwithstanding the above, at the discretion of the DEPARTMENT where the delay or failure will significantly impair the value of this Contract to the DEPARTMENT, the DEPARTMENT may:</p> <p style="padding-left: 40px;">a. Accept allocated performance or deliveries from the CONTRACTOR. or</p>	<p>The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.</p>

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		b. Terminate the Contract, or the portion thereof which is subject to delays, and thereby discharge any unexecuted portion of this Contract or the relevant part thereof.	
199	Attachment 8: DOH Agreement, Section IX: General Specifications; Subsection L.4 (Page 32 of Attachment)	Would the Department consider accepting the deletion of this section to allow Force Majeure provisions to govern any unforeseen events?	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
200	Attachment 8: DOH Agreement, Section IX: General Specifications; Subsection O (Page 34 of Attachment)	<p>Would the Department consider accepting the proposed revision below?</p> <p>CONTRACTOR shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208). CONTRACTOR shall be liable up to the amount that the DEPARTMENT has paid the CONTRACTOR under this Contract for the costs associated with such breach if caused by CONTRACTOR'S negligent or willful acts or omissions, or the negligent or willful acts or omissions of CONTRACTOR'S agents, officers, employees or subcontractors.</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
201	Attachment 8: DOH Agreement, Appendix H: Federal Health Insurance Portability and Accountability Act Business Associate Agreement, Subsection II.G (Page 49 of Attachment)	<p>Would the Department consider accepting the proposed revisions below to ensure compliance under the regulations?</p> <p>Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Program to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528; and Business Associate agrees to provide to Covered Program, in time and manner required under HIPAA, information collected in accordance with this Contract, to permit Covered Program to comply with 45 CFR § 164.528.</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.

#	Corresponding RFP Section	Question	Answer
202	Attachment 8: DOH Agreement, Appendix H: Federal Health Insurance Portability and Accountability Act Business Associate Agreement, Subsection II.I (Page 49 of Attachment)	<p>Would the Department consider accepting the proposed revisions below to ensure compliance under the regulations?</p> <p>Business Associate agrees to make internal practices, books, and records, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Program available to Covered Program, or to the Secretary of the federal Department of Health and Human Services, in accordance with HIPAA , for purposes of the Secretary determining Covered Program's compliance with HIPAA, HITECH and 45 CFR Parts 160 and 164.</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
203	Attachment 8: DOH Agreement, Appendix H: Federal Health Insurance Portability and Accountability Act Business Associate Agreement, Subsection V.A (Page 50 of Attachment)	<p>Would the Department consider accepting the proposed revision below?</p> <p>Any violation of this Appendix H may cause irreparable harm to the DEPARTMENT. Therefore, the DEPARTMENT may seek any legal remedy, including an injunction or specific performance for such harm.</p>	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.
204	Attachment 8: DOH Agreement, Appendix H: Federal Health Insurance Portability and Accountability Act Business Associate Agreement, Subsection V.B (Page 50 of Attachment)	Would the Department consider accepting the deletion of this section since indemnification is already addressed in NYSDHC – Section IX?	The Department reserves the right to negotiate terms of the contract that are non-material in nature with the contract awardee, within the scope of the RFP and in the best interests of New York State. Nonetheless, bidders must be fully prepared to accept all of the terms and conditions set forth in the RFP, without modification, should the Department determine that that constitutes the best interests of New York State.