

**NEW YORK STATE DEPARTMENT OF HEALTH  
HCRA COMPLIANCE AUDIT RFP  
QUESTIONS AND ANSWERS**

The responses (in bold) to the following questions are intended to provide clarification concerning certain aspects of the Request for Proposal (RFP) for HCRA Compliance Audits:

1. Section D.2.c.xiii (pg 11-12) states: “Describe the current obligations or contractual relationships of the bidder or any of its subcontractors which may be interpreted as a conflict of interest with respect to the contract arising out of this RFP.” Please clarify or elaborate on this sentence.

**The contractor and subcontractors would be precluded from performing compliance testing involving an organization that constitutes a conflict of interest under the firm’s corporate policies and applicable professional standards. Prospective bidders are to delineate their plan to deal with such situations in their proposal. It is the responsibility of the Contractor to ensure that audits deemed to be a conflict of interest, are reassigned to a subcontractor and are satisfactorily completed.**

2. In addition, Section D.2.c. states: “The contractor will be precluded from performing HCRA compliance audits of their clients. Therefore, prospective bidders are to delineate how they plan on dealing with such situations in their proposal and include a statement confirming their commitment to have the plan operational within two months of the New York State Office of the State Comptroller’s approval of the contract.” Will DOH have a separate contract with another Contractor to perform audits that are conflicts for the primary Contractor?

**Only one firm will be awarded the HCRA compliance audits contract. The contractor should propose a substitute firm in their proposal, subject to approval by the Department, to be used when a conflict of interest arises. The Contractor will be responsible for performance of the subcontractor in providing the Department with acceptable final reports. Further, the primary contractor will bill the Department, upon the Departments acceptance of a final report, and be responsible for payment to the subcontractor.**

3. Section D.2.c.iv (pg 10) states: “letters of endorsement for relevant work experience required by this proposal should be provided.” Is a “letter of reference” equivalent to a “letter of endorsement”?

**Yes, it is considered to be the same.**

4. Section G.5.c.i (pg 33) states: “The Contractor shall recognize and agree that the State may require the Contractor to perform compliance audit related tasks, which although within the general scope of work required by this Agreement, are not specifically listed in this Agreement.” The Contractors fixed fee per audit will be based on the audit tasks as provided for in the proposal. What is the maximum amount of time DOH anticipates the Contractor will spend on additional tasks?

**The maximum amount of time cannot be determined at this time; however, if the tasks are significant then the Department will separately negotiate a fee with the contractor for such services through a contract amendment. For purposes of the proposal, the bidder should assume the tasks required are incidental to the required tasks.**

5. Section G.5.c.iv (pg 33) states: “The Contractor and the State shall work together to refine the scope of the work for the audit process.” If in refining the scope of the audit, changes to the audit approach or tasks are required, will the Contractor be able to adjust the fees proposed for each audit?

**The purpose of these audits is to determine payor and provider compliance with HCRA and to quantify underpayments. In certain instances, this may require a modification to the audit approach or tasks. For purposes of this proposal however, the bidder should assume the bid offer will not be modified.**

6. Section D.2.e.iii. (pg 13) states: “Further, all contractor staff assigned to the HCRA Compliance Audit project shall be required to read and sign an employee privacy agreement, which the contractor shall provide to the Department.” As opposed to requiring all employees to sign a privacy agreement, would it be acceptable for the company official who is authorized to bind the Contractor to sign a privacy agreement that would also bind all Contractor employees?

**One signature from a company authorized official on a privacy agreement binding all employees is not acceptable. The contractor’s or subcontractor’s employees will be accessing confidential patient claims and corporate trade secret information. The Department requires evidence that all individuals accessing such information agree to maintain the confidentiality of the information.**

7. Section G.3.b. (pg 29) states: “The Department shall be the owner of the work papers/evidence.” Further, Section G.5.f (pg 34) and Section Z.4. of Appendix D also provides for similar terms. Could the terms be revised to state “The work papers prepared by the Contractor and pertinent to performances under this contract are the property of the Contractor, however access to the work papers and copies thereof will be made available in accordance with the terms and conditions of clause #10 of the Standard Clauses for All New York Contracts (Appendix D) included herein and made a part thereof.”?

**It is not necessary to revise the terms of the contract pertaining to records retention. The Contractor may retain the work papers on behalf of the Department subject to Section 10 of Appendix A - Standard Clauses for NYS Contracts as follows:**

**The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.**

8. Section G.4.a (pg 30) does not give the Contractor an opportunity to cure any alleged deficiencies of performance. Could the terms be revised to provide the Contractor with an opportunity to cure the alleged deficiencies within 30 days?

**At the sole discretion of the Department, the contractor will be provided written notification of any performance deficiencies and will be provided a reasonable time to correct them. It would not be appropriate to establish a fixed timeframe due to the nature of the Compliance Audits.**

9. The audit report formats (attachments 4 and 5) do not indicate the level of assurance being provided by the auditor. Is the auditor expressing an opinion on the report or is this an agreed-upon procedures engagement where the auditor does not express an opinion? Can an alternative format be proposed?

**The audit report format will be an agreed-upon procedure between the Department and the Contractor that will not require a certified opinion by the auditor. The Department must approve alternative procedures proposed by the Contractor. Proposed alternative procedures will be reviewed and evaluated as part of the technical scoring of the bid.**

10. Is this the first time an outside CPA firm is being engaged to provide HCRA compliance audits? If not, please provide under FOIL the prior contract award and contractor.

**The first HCRA Compliance Audit Contract (C-018209) for the period October 1, 2001 – March 31, 2005 was awarded to the firm of KPMG LLP. A formal FOIL request must be submitted to the Department of Health Records Access Officer at the following address:**

**Records Access Officer  
New York State Department of Health  
Corning Tower, Rm. 2348  
Albany, New York 12237-0044**

**However, please note that KPMG LLP has requested trade secret status for certain sections of their accepted bid proposal that may not be accessed through FOIL.**

11. Does DOH have estimated time requirements for the audit and for the hearing of Payor Audits, categories 1 - 3? For Provider Audits, categories 1 - 3?

**The Department does not have time estimates for these audits since the current contract payment is based on a price per audit. Hearings are not currently available to the auditee. However, the auditee may have legal recourse in the courts and the bid per hearing should be based on costs for testimony to the facts of the audit.**

12. Travel advances are allowed for State employees in excess of \$400, does this also apply to Contractors?

**Contractors will not be provided a travel advance.**

13. Is there or will there be any accommodation to the Auditor for additional expenses incurred as a result of non-cooperation by the auditee's staff or management? Typically, state agencies allow additional billing to offset budget-busting delays as a means of making the auditee responsible for their actions.

**All payments made under this contract will be on a price per audit basis and will be an all-inclusive rate of payment per audit. Accordingly, amounts for expenses such as those mentioned above should be factored into the bid amount per audit, with the exception of costs for (i) travel to and from audit assignment destinations located outside New York State, and in association with such travel (ii) meals and (iii) lodging, for those assignments that require such, which shall be subject to the same limitations which apply to New York State Management/Confidential (M/C) employees. These limitations including the current available rates may be found by accessing the following New York State Office of the State Comptroller's web site at: <http://nysosc3.osc.state.ny.us/agencies/travel/travel.htm>.**

14. There was mention of a 95% confidence level for sampling yet average population size of records per auditee was not given. Without the population size it would be impossible for a bidder to determine the amount of records to be reviewed. Will the State provide this information to us by 12/15/06 by Category size?

**The Department does not have claims data available to provide this information. The bidder must make assumptions based on their past experience auditing payors and providers.**

15. The State has mentioned that it has sanctions and penalties that it can leverage to enforce compliance with provision of background materials from the auditee, does it typically do so? If so, does the State anticipate sharing these funds with the Auditor?

**Sections 2807-j and 2807-t of the Public Health Law provide for a \$10,000 fine for not providing information required for audit within 30 days of such request. The Department has invoked these fines for a number of the payors audited to date. Fine revenues are deposited in the State's General Fund and are not available for sharing.**

16. Is there any anticipation of allowing payments before the exit conference for auditees that have delayed fieldwork progress?

**No. As stated in the RFP on page 24, up to 50% of the audit price is payable upon completion of the exit conference and submission of a Draft Audit Report and a New York State Standard Voucher (Form AC 92) by the Contractor and acceptance of such report and voucher by the State.**

17. It appears that the State is looking for a fixed price per hearing, if so, is there a typical amount of time allotted by the State to hearings by Category? Are they typically one day or several days? Also, does the State require the Contractor to also support pre-hearing activities of State personnel, legal counsel, etc? If this were the case, a per diem would seem to make more sense for both parties, would you consider this as an option? If not, what is the average preparation time that the State anticipates is required per hearing by Category?

**Hearings are not currently available to the auditees. Consequently, the Department does not have time estimates. The bid is to include only the Contractor's counsel, personnel and travel costs related to court proceedings. The Department will retain responsibility for costs of its personnel and legal counsel. The Contractor will be required to testify to the facts of the audit and provide the Department with pre-trial preparation for such testimony. The bidder should use their experience from similar situations to develop their bid proposal.**