

Hospital Compliance Reviews of Resident Work Hours & Conditions of Post Graduate Trainees
RFP #16195
Questions and Answers – April 2016

Question Number	RFP Reference	Questions	Answers
1.	2.1 Introductory Background (Page 4)	<p>“Currently, there are 16 hospitals with ten (10) or less post graduate resident training programs, 93 hospitals with more than ten (10) post-graduate resident training programs, for a total of 109 teaching hospitals. (emphasis added)</p> <p>In other sections of the proposal, this information is stated as “fewer than 10” [e.g., 3.2.1. B.].</p> <p>Please clarify.</p>	<p>The Introductory Background (Section 2.1 – Page 4): The off-site hospitals with “ten (10) or less” post graduate resident training programs is correct.</p> <p>See Amendment #1, Sections A, D and F.</p>
2.	Section 3.2.2 B) Documents, Recordkeeping and Data (Page 7) D.2 Documents, Recordkeeping and Data (Page 20)	Section 3.2.2 reads “B) Within the first 60 days of notification of award of contract, the contractor will develop and maintain standardized written compliance assessment document(s) for off-site review of facilities not subject to an on-site visit. However, in D 2, we are asked to “provide examples of standardized written compliance assessment documents for off-site review of facilities not subject to an on-site visit.” If they are not to be developed until after notification of award, what specifically should we be providing?	The bidder is expected to submit examples only in draft form to demonstrate how they plan to construct a compliance assessment document. Final documents would be required after the notification of award
3.	6.1 A M/WBE Forms (Page 18)	M/WBE Forms are required to be included in the Administrative Proposal. These forms contain costing information. Should they be included in the Cost Proposal instead?	<p>See Amendment #1, Section B.</p> <p>No, the M/WBE forms are not to be included in the Cost Proposal.</p>
4.	7.0 Proposal Submission (Page 22)	Type size of eleven points is required. May tables and charts use a 10 point font?	It is acceptable to submit tables and charts using 10 point font.
5.	Attachment B Bidder’s Checklist (Page 29)	Should this form be submitted with the proposal, or is it solely for the bidder’s use? If it is to be submitted with the proposal, where should it be included?	The Bidder’s Checklist is for the bidder’s convenience. It is the bidder’s option to include it in the submission. If submitted, it should be included in the Administrative Proposal.
6.	General	Is there an incumbent vendor that provided this service for DOH?	Yes, there is an incumbent vendor.
7.	General	Why has there been such a large gap in service from the previous contract until the anticipated start date of August 1, 2016?	There is not a gap in service. The current contract was extended and now expires 7/31/16.
8.	General	Is DOH expecting the deliverables from bidder to be in a specific format/style?	There are no specific format or style specifications in RFP.

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9.	General	Bidder has an existing BAA with DOH and we are prepared to handle PHI in accordance with the BAA terms agreed to by bidder and DOH in a prior engagement or otherwise negotiate such BAA. Please consider allowing such a provision.	The Department will not accept a previously negotiated Business Associates Agreement and reserves the right to negotiate the Business Associates Agreement for this contract.
10.	State of New York Agreement form Section III. C. Terms of Contract Page 44	State of New York Agreement Form Section III.C: Delete the second sentence and substitute the following: "This notice shall provide Contractor with a reasonable opportunity to cure, which shall be at least ten (10) business days. If the Contractor does not cure the issues giving rise to the termination notice, termination shall be effective at the end of the cure period specified in the notice."	As part of the Bidder's Certified Statements (Attachment A), bidders are required to certify that they accept the contract terms and conditions as set forth in the RFP. NYSDOH 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 as set forth in the RFP without modification should NYSDOH determine that they constitute the best interests of New York State.
11.	State of New York Agreement form Section V.A. Page 45	State of New York Agreement Form Section V.A, Indemnification: Please delete and replace in its entirety with the following: "Contractor shall be fully liable for the actions of its agents, employees, partners or Subcontractors and shall fully indemnify and save harmless the STATE from suits, actions, damages and costs of every name and description relating to personal injury and damage to real or personal tangible property and intellectual property caused by any intentional act or negligence of Contractor, its agents, employees, partners or Subcontractors without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss or damage arising hereunder due to the negligent act or failure to act of the STATE."	As part of the Bidder's Certified Statements (Attachment A), bidders are required to certify that they accept the contract terms and conditions as set forth in the RFP. NYSDOH 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

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			accept all of the terms and conditions as set forth in the RFP without modification should NYSDOH determine that they constitute the best interests of New York State.
12.	Appendix D General Specifications Section B: Page 46	Appendix D, General Specifications Section B: Consider deleting all of the text after “whereupon” in line two and substituting the following: “the undersigned will perform the work with the intent that it shall be completed within the time mutually agreed to by the parties.”	As part of the Bidder’s Certified Statements (Attachment A), bidders are required to certify that they accept the contract terms and conditions as set forth in the RFP. NYSDOH 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 as set forth in the RFP without modification should NYSDOH determine that they constitute the best interests of New York State.
13.	Appendix D General Specifications, Section C, Page 46	Appendix D, General Specifications Section C: Consider deleting “to the satisfaction of the Department” in lines two and three and substituting “in accordance with the terms of the Contract”.	As part of the Bidder’s Certified Statements (Attachment A), bidders are required to certify that they accept the contract terms and conditions as set forth in the RFP. NYSDOH 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

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			as set forth in the RFP without modification should NYSDOH determine that they constitute the best interests of New York State.
14.	Appendix D General Specifications Section F Page 46	Appendix D, General Specifications Section F: Consider deleting “to the satisfaction of the Department” in lines two and three and substituting “in accordance with the terms of the Contract”.	As part of the Bidder’s Certified Statements (Attachment A), bidders are required to certify that they accept the contract terms and conditions as set forth in the RFP. NYSDOH 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 as set forth in the RFP without modification should NYSDOH determine that they constitute the best interests of New York State.
15.	Appendix D, General Specifications Section G Page 46	Appendix D, General Specifications Section G: Consider deleting “to the satisfaction of the Department of Health.”	As part of the Bidder’s Certified Statements (Attachment A), bidders are required to certify that they accept the contract terms and conditions as set forth in the RFP. NYSDOH 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 as set forth in the RFP without

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			modification should NYSDOH determine that they constitute the best interests of New York State.
16.	Appendix D, General Specifications Section N Page 47	Appendix D, General Specifications Section N (Date/Time Warranty): Note this term.	Question was not clear.
17.	Appendix D, General Specifications Section Q Page 48	Appendix D, General Specifications Section Q (Sufficiency of Personnel): Consider deleting this provision and substituting something along these lines: “The parties will discuss and mutually resolve any issues arising from the Department of Health’s opinion that services cannot be satisfactorily performed because of insufficiency of Contractor personnel.”	No. This term is not negotiable.
18.	Appendix D, General Specifications Section T Page 49	Appendix D, General Specifications Section T (Provisions Upon Default): i. Paragraph 1: In line one, insert “material” before “terms”; add the following at the end: “, provided that the Department has first provided Contractor with a reasonable opportunity (of no less than ten (10) business days) to cure the deficiency in performance and the Contractor has failed to do so.”	i. As part of the Bidder’s Certified Statements (Attachment A), bidders are required to certify that they accept the contract terms and conditions as set forth in the RFP. NYSDOH 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 as set forth in the RFP without modification should NYSDOH determine that they constitute the best interests of New York State.

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	Appendix D, General Specifications Section T. Provisions Upon Default Page 49	ii. Paragraph 2: Add the following after the first sentence: "This notice shall provide Contractor with a reasonable opportunity to cure, which shall be at least ten (10) business days. If the Contractor does not cure the issues giving rise to the termination notice, termination shall be effective at the end of the cure period specified in the notice."	ii. As part of the Bidder's Certified Statements (Attachment A), bidders are required to certify that they accept the contract terms and conditions as set forth in the RFP. NYSDOH 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 as set forth in the RFP without modification should NYSDOH determine that they constitute the best interests of New York State.
19.	Appendix D, General Specifications Section W Page 49	Appendix D, General Specifications Section W (Contract Insurance Requirements): i. Paragraph 1, Line 5: Delete "or by subcontractors". ii. Paragraph 1, line 8: Insert a period after "section". iii. Paragraph 1, Lines 8 and 9: Delete "which certificate or certificates shall state that". iv. Paragraph 1, Line 9, capitalize "The". v. Paragraph 1, Line 9: Delete "changed or". vi. Paragraph 1.b.ii: Delete "or by its subcontractors, including omissions and supervisory acts of the State." vii. Paragraph 1.b.iii: Delete "or by its subcontractors, including omissions and supervisory acts of the State."	No. The Department will not accept the proposed changes to its Contract Insurance Requirements (i.- vii.)
20.	Appendix D General Specifications Section Y Page 51	Appendix D, General Specifications Section Y (Confidentiality Clauses): Delete paragraph 4 and substitute the following: "4. All reports, data sheets, documents, etc. generated under this contract shall be the sole and exclusive property of the Department of Health, provided, however, that the work papers prepared by CONTRACTOR which are pertinent to its performance under this AGREEMENT and are used in preparation of	As part of the Bidder's Certified Statements (Attachment A), bidders are required to certify that they accept the contract terms and conditions as set forth in the RFP. NYSDOH reserves the right to

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		<p>contract deliverables are the property of CONTRACTOR and will be maintained in accordance with the terms and conditions of Item 10 of the Standard Clauses for New York Contracts (Appendix A). Upon completion or termination of this AGREEMENT, the CONTRACTOR shall deliver to the Department of Health upon its demand all copies of materials relating to or pertaining to this AGREEMENT. The CONTRACTOR shall have no right to disclose or use any of such material and documentation for any purpose whatsoever, without the prior written approval of the Department of Health or its authorized agents, except when required by law, legal process or applicable professional standards, or otherwise permitted by this Agreement. The forgoing notwithstanding, CONTRACTOR may retain a copy of information received, developed, or otherwise relating to this AGREEMENT in order to comply with its contractual obligations and applicable professional standards. Information stored on routine back-up media for the purpose of disaster recovery will be subject to destruction in due course. Latent data such as deleted files and other non-logical data types, such as memory dumps, swap files, temporary files, printer spool files and metadata that can customarily only be retrieved by computer forensics experts and are generally considered inaccessible without the use of specialized tools and techniques will not be within the requirement for the return of records as set forth by this paragraph. In the event of a termination for default or convenience, CONTRACTOR shall not have any liability to the Department of Health as a result of the Department of Health's use of any unfinished, incomplete, or draft work products and materials that are furnished to it.”</p>	<p>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 as set forth in the RFP without modification should NYSDOH determine that they constitute the best interests of New York State.</p>
21.	Additional Terms	<p>Additional Terms: Consider adding the following terms:</p> <p>i. Limitation of Liability: “Notwithstanding anything else herein to the contrary, the liability of the Contractor on account of any actions, damages, claims, liabilities, costs, expenses or losses in any way arising out of or relating to the services performed under the Contract shall be limited to the amount of fees paid or owing to Contractor under the Contract. In no event shall Contractor be liable for</p>	<p>i. No. This additional term will not be considered.</p>

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	Additional Terms	<p>consequential, special, indirect, incidental, punitive or exemplary damages, costs, expenses, or losses (including, without limitation, lost profits and opportunity costs). This section shall apply regardless of the form of action, damage, claim, liability, cost, expense, or loss asserted, whether in contract, statute, tort (including but not limited to negligence) or otherwise and shall survive termination or expiration.”</p> <p>Additional Terms: Consider adding the following terms:</p> <p>ii. Use of Vendors. “Notwithstanding any other term in this Agreement, DOH acknowledges that in connection with the performance of services under the Contract, Contractor may use the services of Contractor-controlled entities and/or member firms of the Contractor to complete the services required by this Contract. DOH also acknowledges that in connection with the performance of services under the Contract, Contractor uses vendors within and without the United States to provide at Contractor’s direction administrative and clerical services to Contractor. These Contractor -controlled entities, member firms of the Contractor, and vendors (“Third Parties”) may in the performance of such services have limited access to information, including but not limited to confidential information, received by Contractor from or at the request or direction of DOH. Contractor represents to the State that each such vendor has agreed to conditions of confidentiality with respect to the Division’s information to the same or similar extent as Contractor has agreed to pursuant to the contract. Contractor will have full responsibility to cause these Third Parties to comply with such conditions of confidentiality and Contractor shall be responsible for any consequences of their failure to comply. Accordingly, DOH consents to Contractor’s disclosure to such Third Parties, and the use by such Third Parties of data and information, including but not limited to confidential information, received from or at the request or direction of DOH for the purposes set forth herein.”</p>	<p>ii. As part of the Bidder’s Certified Statements (Attachment A), bidders are required to certify that they accept the contract terms and conditions as set forth in the RFP. NYSDOH 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 as set forth in the RFP without modification should NYSDOH determine that they constitute the best interests of New York State.</p>

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	Additional Terms	<p>Additional Terms: Consider adding the following terms:</p> <p>iii. Management Responsibility: “Contractor’s services may include advice and recommendations; but all decisions in connection with the implementation of such advice and recommendations shall be the responsibility of, and made by, DOH. The Contractor will not perform management functions or make management decisions for DOH.</p>	<p>iii. As part of the Bidder’s Certified Statements (Attachment A), bidders are required to certify that they accept the contract terms and conditions as set forth in the RFP. NYSDOH 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 as set forth in the RFP without modification should NYSDOH determine that they constitute the best interests of New York State.</p>
	Additional Terms	<p>Additional Terms: Consider adding the following terms:</p> <p>iv. Third Party Usage: “Notwithstanding anything to the contrary in this Contract, any advice, recommendations, information, deliverables or other work product provided to DOH under this Agreement is for the sole use of DOH, and is not intended to be, and may not be, relied upon by any third party, and all advice, recommendations, information, deliverables, or other work product may be marked to so indicate. Except for disclosures that are required by law or that are expressly permitted by this Contract, DOH will not disclose or permit access to such advice, recommendations, information, deliverables, or other work product to any third party without the Contractor’s prior written consent.”</p>	<p>iv. As part of the Bidder’s Certified Statements (Attachment A), bidders are required to certify that they accept the contract terms and conditions as set forth in the RFP. NYSDOH 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.</p>

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	Additional Terms	<p>Additional Terms: Consider adding the following terms:</p> <p>v. Ownership of Materials: “Notwithstanding any other terms in this Contract, the Contractor retains all ownership rights in any proprietary methodologies, methods, processes, procedures, software, or source code of the Contractor that pre-exist or were developed outside the scope of this Contract. If any such property of Contractor is contained in any of the deliverables hereunder, the Contractor grants to DOH a royalty-free, paid-up, non-exclusive, perpetual license to use such Contractor intellectual property in connection with DOH’s use of the deliverables.”</p>	<p>Nonetheless, bidders must be fully prepared to accept all of the terms and conditions as set forth in the RFP without modification should NYSDOH determine that they constitute the best interests of New York State.</p> <p>v. As part of the Bidder’s Certified Statements (Attachment A), bidders are required to certify that they accept the contract terms and conditions as set forth in the RFP. NYSDOH 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 as set forth in the RFP without modification should NYSDOH determine that they constitute the best interests of New York State.</p>

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	Additional Terms	<p>Additional Terms: Consider adding the following terms:</p> <p>vi. “Communication: “CONTRACTOR may communicate with the Department of Health by electronic mail or otherwise transmit documents in electronic form during the course of this engagement. The Department of Health accepts the inherent risks of these forms of communication (including the security risks of interception of or unauthorized access to such communications, the risks of corruption of such communications and the risks of viruses or other harmful devices) and agrees that it may rely only upon a final hardcopy version of a document or other communication that CONTRACTOR transmits to the Department of Health. The CONTRACTOR will exercise the same level of care to protect the Department of Health’s information under this AGREEMENT as CONTRACTOR exercises to protect its own confidential information but in no event less than reasonable care.”</p>	<p>vi. As part of the Bidder’s Certified Statements (Attachment A),, bidders are required to certify that they accept the contract terms and conditions as set forth in the RFP. NYSDOH 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 as set forth in the RFP without modification should NYSDOH determine that they constitute the best interests of New York State.</p>
	Additional Terms	<p>Additional Terms: Consider adding the following terms:</p> <p>vii. Volume Rebates: “Where Contractor is reimbursed for expenses, it is Contractor’s policy to bill clients the amount incurred at the time the good or service is purchased. If Contractor subsequently receives a volume rebate or other incentive payment from a vendor relating to such expenses, Contractor does not credit such payment to its clients. Instead, Contractor applies such payments to reduce its overhead costs, which costs are taken into account in determining Contractor’s standard billing rates and certain transaction charges that may be charged to clients.”</p>	<p>vii. No. This additional term will not be considered.</p>

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	Additional Terms	<p>Additional Terms: Consider adding the following terms:</p> <p>DOH Vendors: "DOH is aware that Contractor may be providing assurance, tax and/or advisory services to other actual or potential vendors of DOH. Contractor will perform an internal search for any potential client conflicts relating to any of the City's vendors identified by DOH as having a role in connection with Contractor's performance of this Agreement. DOH hereby agrees that a vendor's status as a Contractor client does not impact Contractor's engagement to perform this Agreement Contractor will advise DOH of any conflicts of interest that could prevent it from performing the Agreement. However, Contractor is a large firm that is engaged by new clients on a daily basis and as a result it cannot guarantee that, following its conflict search, an engagement for any other related party will not be accepted somewhere else in Contractor's firm. Should any new information come to Contractor's attention, Contractor will promptly inform DOH. Contractor shall perform this Contract in accordance with applicable professional standards."</p>	<p>As part of the Bidder's Certified Statements (Attachment A), bidders are required to certify that they accept the contract terms and conditions as set forth in the RFP. NYSDOH 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 as set forth in the RFP without modification should NYSDOH determine that they constitute the best interests of New York State.</p>