

Questions and Answers – Summary (Part 2 of 2)

RFP #DS-07

# Education Data Portal: Data Dashboard Solutions



NEW YORK STATE EDUCATION DEPARTMENT

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**Purpose:**

The purpose of this document is to:

- 1) Provide and describe an updated schedule of events
- 2) Provide clarification on specific sections of the RFP released on 4/20/12
- 3) Provide a list of updated RFP forms & attachments as well as the location of these documents (including revised and final terms and conditions to the Contract - sections 4.10 - 4.14 of the RFP).
- 4) Provide written and authoritative responses to questions collected between the RFP release date and the Question Submittal Deadline (5/18/12 @ 5pm EST), but NOT answered as of 5/25/12 (Question Response Release (Part 1 of 2)).

In doing so, NYSED aims to ensure that bidders have complete and accurate information on RFP contents and concepts, as well as access to up-to-date RFP documentation, in order to develop proposals in an efficient and effective manner.

**1 SCHEDULE OF EVENTS (UPDATED)**

**1.1 Schedule**

<b>Event</b>	<b>Timeline</b>
RFP Release Date	April 20, 2012
Letter of Intent	May 4, 2012
Mandatory Bidder's Conference (in Albany)	May 11, 2012 @ 9:30 AM ET
SLC Bidder's Conference (via web conference)	May 16, 2012 @ 12.30 PM ET
Question Submittal Deadline (Questions may contain exceptions to the Terms and Conditions)	May 18, 2012 @ 5:00 PM ET
<b>Question Response Release (Part 1 of 2)</b>	<b>May 25, 2012</b>
<b>Question Response Release (Part 2 of 2)</b>	<b>June 1, 2012</b>
Proposals Due	June 19, 2012 @ 3:00 PM ET
Proposal Evaluation Begins	June 20, 2012
Technical Presentations	July 23, 24, 25, 2012
Recommendation & Designation	August 3, 2012
Contract Finalization	August 6, 2012 – September 6, 2012
Contract Execution	September 15, 2012
Work Begins	November 1, 2012

## 1.2 Description of Updates

Originally, NYSED scheduled one Question Response Release Date of 5/25/12. Between the RFP Release Date (4/20/12) and the Question Submittal Deadline (5/18/12), NYSED received ~ 300 questions from potential bidders and additional exception requests to terms and conditions of the Contract (contained in Sections 4.10 - 4.14 of the RFP).

*Due to this heavy volume of questions (and the time-intensive nature of reviewing exceptions of Contract terms and conditions), NYSED will modify the schedule of events to include **TWO** Question Response Release Dates (highlighted in the schedule above):*

- 1) Question Response Release Date – Part 1 (5/25/12): The vast majority of questions regarding the RFP contents and RFP process in general will be answered at this time and within this document, titled, **Questions and Answers – Summary (Part 1 of 2)**. This document contains answers to ~ 250 questions, as well as other types of information and resources (see “Table of Contents”).
- 2) Question Response Release Date – Part 2 (6/1/12): Remaining questions (~ 50) regarding the RFP contents and RFP process in general will be answered at this time and within a document, titled, **Questions and Answers – Summary (Part 2 of 2)**. In addition, NYSED will publish a final version of the Contract terms and conditions, based upon a review of exception requests submitted by vendors as of 5/18/12.

## 1.3 Contact Information

Throughout the RFP process, vendors may direct inquiries re: RFP process (as opposed to RFP contents) to the following NYSED staff:

### **Program Matters**

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### **Fiscal Matters**

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## 2 LIST OF CLARIFICATION POINTS: RFP #DS-07

### 2.1 Page 5, Paragraph 3

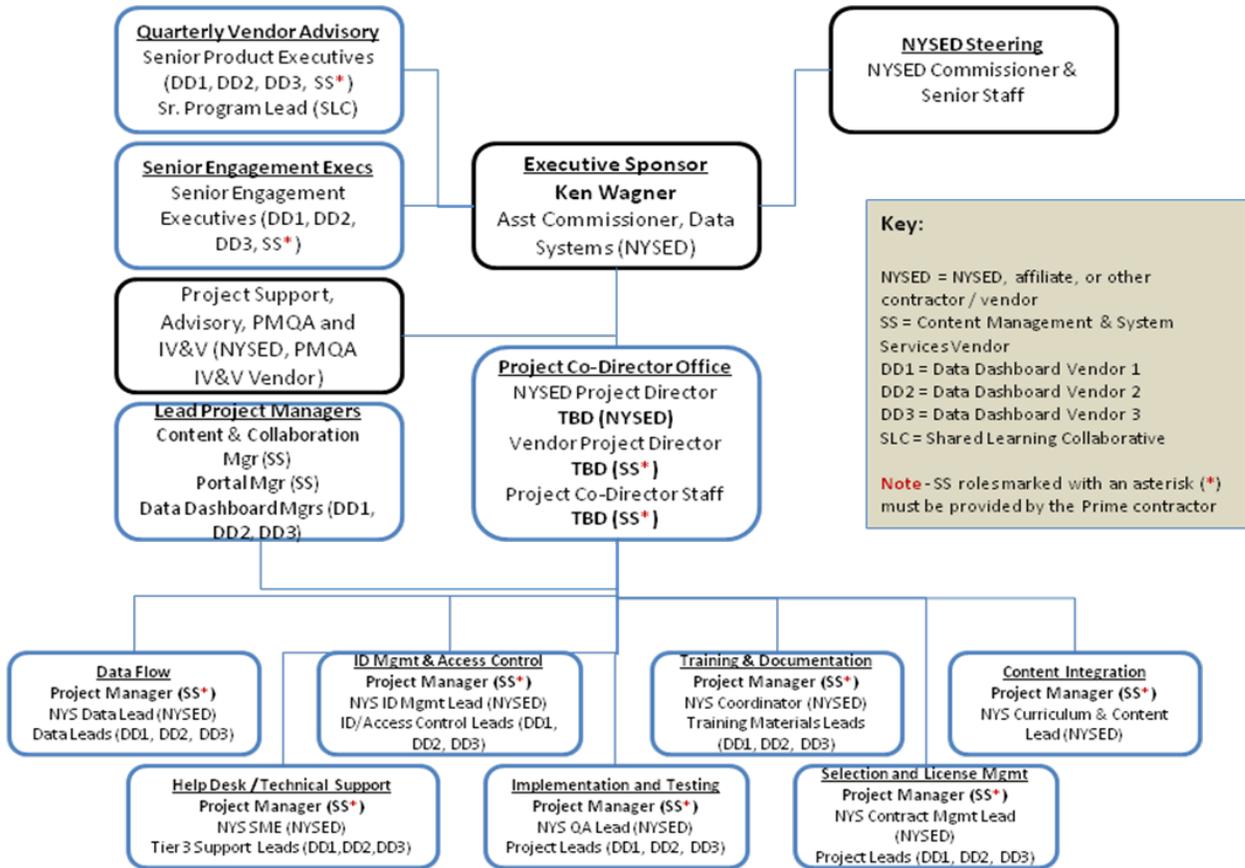
Original text: NYSED is issuing concurrently a separate RFP, for Education Data Portal: Data Dashboard Solutions. ***The same vendor cannot be a prime contractor on both contracts, although a vendor can be a prime contractor on one and a subcontractor on the other, or a subcontractor on both.*** All roles depicted with an asterisk in the “Proposed EDP Management Structure” diagram in Section 1.3 must be provided by the prime contractor on the Content Management and System Services contract.

Final Clarification of bold and italicized text (above): *The same vendor cannot be a prime contractor on both contracts, although a vendor can be a prime contractor on one and a subcontractor on the other, or a subcontractor on both. A prime contractor may submit a proposal to be considered for either the DDS RFP or the CM&SS RFP, but not for both RFP's.*

### 2.2 Section 1.3 - Proposed Education Data Portal Management Structure

The diagram below is updated to include a "Portal Manager" role in the *Lead Project Managers* box. All other contents within the diagram remain the same. A brief description of the "Portal Manager" role is provided in the following section (2.2) of this document.

# Proposed EDP Management Structure



## 2.3 Section 1.3.1 - Definition of Project Roles

The ninth row of this table is updated to include and describe the "Portal Manager" role. The bold and italicized text in the table below reflects these changes:

Role	Definition
<i>Lead Project Managers</i>	The Content and Collaboration solution will be managed (end-to-end) by a Lead Project Manager from the SS vendor*. <b><i>The Portal solution will be managed (end-to-end) by a Lead Project Manager from the SS vendor* OR a vendor sub-contracted by the Prime contractor.</i></b> Similarly, each of the Data Dashboard Solution vendors will provide a Lead Project Manager.

## 2.4 1.3.3 - Contractor Roles and Responsibilities

The MINIMUM Time On Site table has been corrected and updated (see below). The table below clarifies the specific roles required on site (that map to project roles reflected in Section 1.3.1 of the RFP).

MINIMUM Time On Site								
Year 1 (Implementation)							Year 2	Year 3
	Project Initiation and Planning	Requirements Analysis	Design	Development	Integration and Testing	Implementation	Operations and Maintenance	Operations and Maintenance
<b>Lead Project Manager</b>  ( e.g. Data Dashboard Manager for DD1)	80% on site	80% on site	80% on site	40% on site	80% on site	80% on site	One day per month	One day per month
<b>DDS Lead per work Stream</b>  ( e.g. Data Lead from DDS 1 for <i>Data Flow</i> work stream)	80% on site	60% on site	60% on site	40% on site	80% on site	80% on site	One day per month	One day per month

## 2.5 Section 2.3.2 - Technical Proposal (System Requirements and Technical Approach

See modified text (in red font) in the screen shot below. The scale to determine a vendor's ability to meet system requirements has been revised to include an additional category ("Roadmap") and to provide further specifications. Additionally, an updated "Data Dashboard Attachment 6.2 - Detailed Requirements" has been posted to <http://usny.nysed.gov/rttp/rfp/ds-07/home.html> to include these revisions.

### *System Requirements*

Using the Requirements table provided as Attachment 6.2, Detailed Requirements, and using the following indicators, the bidder should provide its indication as to whether its solution meets NYSED's requirements.]

#### *Scale for bidder ability to meet requirements:*

- OB - Meets requirement "out of the box" (i.e. the bidder's solution meets the requirement as of date of proposal submission).
- CC - Meets requirements with "custom software code" by Year 1 launch (October 2013)<sup>3</sup>
- R - Will meet requirement by Year 1 launch (October 2013) through a planned product "Roadmap" change (R)<sup>4</sup>
- NS - Not supported (i.e. the bidder does not intend (or is unable) to meet the requirement by Year 1 launch (October 2013).

The bidder must respond to every requirement in Attachment 6.2, including references to pages in the Technical Proposal where that requirement is discussed. Failure to provide the page number where the requirement is addressed in the proposal may result in a lower score if evaluation is impeded by such failure. **Failure to meet each and every mandatory requirement in Attachment 6.2 will lead to rejection of the proposal on non-responsive grounds (i.e. Not supported is not an acceptable response to a mandatory requirement).**

#### *Existing footnote:*

<sup>3</sup>"Custom software code" refers to coding changes required to enable pre-existing products to meet the functional requirements as expressed in Attachment 6.2 Detailed Requirements, excepting those requirements that pertain specifically to integrating the product with SLI data.

#### **New footnote:**

<sup>4</sup>A planned product "Roadmap" change refers an enhancement to the bidder's product that is already planned for a release which will be available to NYSED by Year 1 launch (October 2013) and included as part of the base product (i.e. custom code development is not needed to meet NYSED's requirement.)

## 2.6 Section 2.3.3 - Cost Proposal

Discounts for quantity breaks will be applied to the additional licenses above each threshold indicated in the "Quantity" column of the discount quantity breaks table in Section 2.3.3 (Cost Proposal) and 5.8 (Bid Form). The following example demonstrates how this would work.

Example Annual Fee assuming 600,000 Students	Assuming \$1.00 Unit Price			
	# of licenses @ full Unit Price or \$1.00	# of licenses @ 95% of Unit Price or \$0.95	# of licenses at 90% of Unit Price or \$0.90	Total Units & Revenue
	249,999	250,001	100,000	600,000
Revenue	\$ 249,999	\$ 237,501	\$ 90,000	\$ <b>577,500</b>

## 2.7 Sections 4.10 to 4.14

Sections 4.10 to 4.14 of the RFP will be included in the awarded contracts. All questions or exceptions regarding Sections 4.10 to 4.14 must have been submitted by 5pm EST on 5/18/12. The final version of contract terms and conditions are available at <http://usny.nysed.gov/rtt/rfp/ds-07/home.html> as of 6/1/12. **Proposals that contain additional exceptions to contract terms and conditions will be treated as non-responsive and disqualified from the review process.** Vendors who are unable to complete or abide by the final version of Sections 4.10 to 4.14 should not respond to this RFP.

## 3 UPDATED FORMS AND ATTACHMENTS FOR RFP #DS-07

### 3.1 Language for Revised Terms and Conditions

NYSED considered all submitted questions and exceptions to Sections 4.10 to 4.14 of the DDS and CM&SS RFPs and has on June 1, 2012 posted in response a redlined and clean copy of the final version of these sections. This final version will be included in the awarded contracts. The redlined copy of Sections 4.10 to 4.14 of the DDS RFP (DS-07) is called "EDP DS-07 T&C Revs FINAL markup 6-1-12" and can be found [here](#) under the page section called **RFP DOCUMENTS**. The clean copy is called "EDP DS-07 T&C Revs FINAL clean 6-1-12" and can be found [here](#) under the page section called **RFP DOCUMENTS**.

As discussed and distributed at the 5/11 bidder's conference, vendors who are unable to complete or abide by the final version of Sections 4.10 to 4.14 should not respond to these RFPs. Proposals that contain additional exceptions to these posted terms and conditions will be treated as non-responsive and disqualified from the review process.

Please disregard the fourth bullet of Section 2.3.1 of the RFP (Cover Letter) insofar as this section allows for the submission of contract exceptions to be submitted with the proposal.

### **3.2 Clarification on Newly Posted Forms**

The following forms are new or have been revised or an updated version is now included in response to clarifications made through the Q&A process.

#### **3.2.1 Subcontracting Form (Section 5.8)**

Subcontracting Form (Section 5.8) was revised to indicate that the 40% subcontracting limit is on the total three-year contract amount rather than on the annual contract amount. The updated document is called "DDS Revised Subcontracting Form Section 5.8\_060112" and can be found [here](#) under the page section called **RFP DOCUMENTS**.

#### **3.2.2 MWBE Purchases Form (Section 5.8)**

MWBE Purchases Form (Section 5.8) was revised to indicate this same changes in the Subcontracting Form (Section 5.8). The updated document is called "DDS Revised MWBE Purchases Section 5.8\_060112" and can be found [here](#) under the page section called **RFP DOCUMENTS**.

#### **3.2.3 Iran Divestment Act Certification form**

Iran Divestment Act Certification is a new Assurance form relating to the new law within 2012 Laws of New York. The form is called "Iran Divestment Act Certification\_060112" and can be found [here](#) under the page section called **RFP DOCUMENTS**.

#### **3.2.4 MWBE Documents (Section 5.9)**

MWBE Documents (Section 5.9) have been revised to include all forms that may be needed in the selection and reporting process of MWBE. Specifically, the following forms were not included in the original RFP: M/WBE Contractor Good Faith Efforts Certification, M/WBE Contractor Unavailable Certification, Request for Waiver Form and the Requirements and Document Submission Instruction. This set of documents is called " DDS Revised MWBE Documents Section 5.9\_060112" and can be found [here](#) under the page section called **RFP DOCUMENTS**.

### 3.2.5 Detailed Requirements (Attachments 6.2)

The scale to determine a vendor's ability to meet system requirements has been revised to include an additional category ("Roadmap"). The updated spreadsheet is called "Data Dashboard Attachment 6.2 - Detailed Requirements" and can be found [here](#) under the page section called **RFP ATTACHMENTS**.

### 3.2.6 Hosting Services (Attachment 6.3)

Attachment 6.3 has been revised based on the following changes:

- 1) Section 4.b. - The cap across all penalties has been reduced from 60% to 25% of the Monthly Cost.
- 2) Section 4.b. - Credits are calculated each month by multiplying the Monthly Cost for the applicable School Year by the credit percentage that corresponds to the calculated system availability. The Monthly Cost is based on the Annual Cost, as defined and described in Sections 2.3.3 (Cost Proposal) and 2.3.4 (Proposed Payment Schedule) of the RFP.
- 3) Section 4.c. - This section specified penalties to be levied against short outages or interruptions. This section has been removed.

This updated attachment is called "Data Dashboard Attachment 6.3 - Hosting Services" and can be found [here](#) under the page section called **RFP ATTACHMENTS**.

## 4 QUESTIONS AND ANSWERS

Originally, NYSED scheduled one Question Response Release Date of 5/25/12. Between the RFP Release Date (4/20/12) and the Question Submittal Deadline (5/18/12), NYSED received ~ 300 questions from potential bidders and additional exception requests to terms and conditions of the Contract (contained in Sections 4.10 - 4.14 of the RFP). The vast majority of questions regarding the RFP contents and RFP process in general are answered in a document titled **Questions and Answers – Summary (Part 1 of 2)**, which was posted to <http://usny.nysed.gov/rftt/rfp/ds-07/> on 5/25/12

A small subset of questions submitted by vendors as of 5/18/12 required further review as of 5/25/12, and have since been answered in the sub-sections below. Questions and answers within these sections are listed in ascending order by "ID", which is a stable and unique identifier for each question. Please note that questions for RFP #DS-08, #DS-07, and both RFPs have been consolidated into a repository based on question submission date and time, and IDs have been assigned in this order. As such, each table, while in ascending order, does not include a full and complete sequence of ID values (e.g. 1,2,3,4,5,6....).

#### 4.1 Questions and answers specific to RFP #DS-07 only (Data Dashboard Solutions)

ID	Question	Category	Final Response
2	If the CM&SS vendor(s) or the SLC do not meet their milestones/deliverables in time (or at all), will DDS vendors be let out of their Contract with NYSED for DDS?	Ts & Cs	If changes to timelines or other requirements are necessary as a result of the performance of the CM&SS vendor and/or the SLC, NYSED and the DDS vendors will use all reasonable means to amend timelines, requirements, and invoice milestones as necessary. Termination may be considered only if the third-party performance issues have rendered it unreasonable to expect the DDS vendors to accomplish its material responsibilities under its contracts.
62	Please clarify the timeframe for delivery of the Dashboards. What is the date that the Dashboard needs to be live and integrated with NYSED's authentication system?	Timeline	See response to ID 23.
110	<p>Please confirm the State concurs with this method for obtaining the software licenses:</p> <p>Proposed process for Software Vendor Subcontract: The Vendor Software License Agreement "SLA" will be signed by Prime Contractor and Software Vendor. The SLA software and services shall be used solely for the benefit of, and in support of the internal business operations of the State of New York's Education Department. Prior to the expiration of the Prime Contract, Prime Contractor shall assign/transfer the SLA and all licensed Software to the State of New York's Education Department.</p>	Ts & Cs	<p>NYSED does not approve methods for subcontracting. It is the responsibility of the contractor to ensure that its obtained software licenses meet the requirements of the RFP.</p> <p>The proposed language, however, is not broad enough to cover the uses of the software that are required under the RFP and resulting contract. The language "in support of the internal business operations of [NYSED]" is too limited, given that the EDP will be used by LEAs and will connect to the SLC. The contractor must ensure that the software licenses include all potential uses of the EDP and data dashboards that are contemplated by the RFP.</p>

ID	Question	Category	Final Response
112	<p>Will the State consider a National Lab (Federal Program) as a subcontractor on this response? It is our understanding they may not be able to participate as part of a competitive bid process as a primary vendor, but unsure about subcontracting on this type of opportunity with a private-sector vendor.</p>	Eligibility	<p>Please consult with the relevant federal agency to determine whether there are any subcontracting restrictions for this vendor.</p>
135	<p>On Page 29, there is a table titled "Minimum Time on Site". (a) This table looks to be exactly the same as the table on page 30 of the CM&amp;SS RFP. Was it NYSED's intention that these tables are the same? (b) There is a row of this table for "Key Staff &amp; Staff Assigned to Co-Director's Office". Since there are no Data Dashboard Vendor roles in the Co-Director's Office, how does this line apply to this RFP? (c) Does this line only apply to the roles identified as Key on page 71 (Senior Product Executive, Senior Engagement Executive and the Lead Project Manager for the Data Dashboard Vendor)? If so, how does the statement on page 29 state that the Senior Product Executive only needs to be available one half day per quarter relate to the requirements of this line in the table (i.e. being on site 80%)? (d) There is a row of this table for "Work Stream Leads". Page 26 states that "Each of the seven work streams will be led by a Project Manager from the winner of the Content Management and System Services RFP*", not the winners of the Data Dashboard Solution RFP. As such, it would seem that this line for Work Stream Leads in the table is not relevant to the Data Dashboard Solution RFP. Is this correct? If not, what Data Dashboard roles are subject to this line of the table? It would not seem that any other Data Dashboard roles would require this level of on-site presence as a software as a service offering.</p>	Management Structure	<p>a) No. Please review an updated and corrected "Minimum Time on Site" table in Section 2 of Questions and Answers – Summary (Part 2 of 2) for RFP #DS-07.</p> <p>b) Please review an updated and corrected "Minimum Time on Site" table in Section 2 of Questions and Answers – Summary (Part 2 of 2) for RFP #DS-07.</p> <p>c) Please review an updated and corrected "Minimum Time on Site" table in Section 2 of Questions and Answers – Summary (Part 2 of 2) for RFP #DS-07.</p> <p>d) Please review an updated and corrected "Minimum Time on Site" table in Section 2 of Questions and Answers – Summary (Part 2 of 2) for RFP #DS-07</p>

ID	Question	Category	Final Response
136	<p>17. Section 1.4.8 Application Warranty Services states the “Vendor shall provide staff support on-site, as needed for 60 days following full system acceptance. Vendor will repair code developed by Vendor during the warranty period (see 4.13.5, part H below), at no charge to NYSED ...” Likewise in section 4.13.5 part H System Warranty, the RFP states “for the period of this agreement and any extensions thereof (the “Warranty Period”), the Contractor shall warrant the following ...” . Given the software as a service model desired in this RFP with the ability for districts and NYCDOE schools to change their dashboard vendors over time, it would also seem incumbent on the vendors to deliver and maintain defect free code to maintain their install base. Additionally, for this type of solution, per standard industry practice, the warranty period would seem appropriately defined as 60 days following full system acceptance which is followed by Application Maintenance and defect support as defined in section 1.4.9. (a) Can NYSED clarify the relationship between the 60 days and the Warranty Period quoted in these two sections? (b) There is no other reference to “full system acceptance” in the RFP. Can NYSED clarify what date (i.e. per the timeline presented at the Bidders Conference) is associated with this date?</p>	Application Warranty Services	Section 1.4.8 (Application Warranty Services) designates a period of time, 60 days following EDP deployment (October 2013), during which the vendor must have staff support on-site. Section 4.13.5 (Warranties) defines warranty provisions that are in place over the entire warranty period. Warranty Period is defined in Section 4.13.5-H (System Warranty) as the entire term of the agreement and any extensions thereof.
137	<p>18. Can NYSED clarify under what tasks, deliverables, sections of the RFP software code defect support is meant to be covered? And, for each quoted section, what is the time frame for which defect support is supposed to be provided. Defect support seems to be quoted in both warranty and application maintenance and support sections of the RFP.</p>	Application Warranty Services	Code defect support is addressed in Section 4.13.5 (Warranties). The timeframe for defect support is the entire duration of the contract. See Question ID 136.

ID	Question	Category	Final Response
139	<p>20. Assuming that NYSED desires the data dashboards to be delivered as a software as a service (SaaS), why in section 2.3.2 are they asking to define a requirement as "custom software code"? As a SaaS, NYSED is not buying code but rather merely getting the right to use a solution. As a vendor, we would be concerned in clarifying something as custom software when in fact as of today, a requirement may not be met in our current offering but it is on our roadmap already to be done for other clients and would not seem appropriate to define as either "out of the box" or "custom for NYSED". Would NYSED consider a more standard SaaS requirement matrix response in Attachment 6.2 that instead of asking for OB, CC or NS, ask for OB, NS or R for "on product roadmap" along with a date for which a function that is not OB will be available within the NYSED solution?</p>	Scope	<p>NYSED has updated Section 2.3.2 of the RFP as well as Attachment 6.2 (see in Section 2 of Questions and Answers – Summary (Part 2 of 2) for RFP #DS-07).</p>
143	<p>24. Given the timeline presented in section 1.2.2 as well as the timeline graphic presented at the vendor conference, can NYSED clarify when on this timeline task 1.4.8 Application Warranty Service is to be performed? Is this 60 days to be completed prior to the EDP Launch in September 2013? Can the 60 days straddle the EDP Launch? Does the 60 days start at EDP Launch?</p>	Application Warranty Services	<p>See Question ID 136.</p>
144	<p>25. Given the timeline presented in section 1.2.2 as well as the timeline graphic presented at the vendor conference, can NYSED clarify when on this timeline task 1.4.9 maintenance and technical support is to begin? Does this start immediately after task 1.4.8 even if task 1.4.8 completed prior to EDP Launch in September 2013? Does this start on the same date as EDP Launch?</p>	Application Warranty Services	<p>It is expected that any services included in the maintenance and technical support description (Section 1.4.9) that are not also included in the warranty services (Section 1.4.8) would begin immediately after the warranty service period (i.e. 60 days after EDP launch). See Question ID 136.</p>

ID	Question	Category	Final Response
146	<p>It is standard industry practice for software as a service (SaaS) contracts to pay in advance of the term for which the client is obtaining the right to use a solution. This is also a consistent payment method within the RFPs released by your fellow SLI states that you highlighted at the vendor conference (NC, OH and MA). Based on section 2.3.4, NYSED is not only asking for a payment schedule that spans the term of the SaaS arrangement but is asking the vendor community to provide SaaS for 3 complete months (August, September and October) without even the ability to invoice NYSED and, likely 4 or 5 months before a vendor receives payment from NYSED. This type of payment arrangement does not seem to be consistent with NYSED's desire to encourage other software vendors to create innovative SLI-based solutions knowing the payment schedule is not consistent with standard SaaS business models for which they can develop applications. Would NYSED consider a payment schedule that is more in-line with industry standard SaaS payment models and one that would indeed encourage the innovations built on SLI that you mentioned at the vendor conference?</p>	Payment Model	<p>NYSED will consider a change to Section 2.3.4 (Proposed Payment Schedule) for the Annual Cost Component (B) whereby the vendor may invoice NYSED on a monthly basis, and NYSED will process payments each month (for the previous month's services).</p>
149	<p>Does the state intend to share or redistribute vendor materials developed for the engagement with other states or school districts? What limitations on redistribution is the State willing to consider?</p>	Ts & Cs	<p>The State intends to use the materials described in the RFP for engagement purposes with its LEAs and for funding compliance purposes with the U.S. Education Department. The State does not intend to distribute vendor materials developed under the DDS contract to other states. All limitations on re-distribution are described in the revised RFP Sections 4.10 to 4.14 posted on June 1, 2012.</p>

ID	Question	Category	Final Response
179	Our company [Vendor] has preexisting master software licenses and service agreements in place with the State of New York, including New York State Education Department. Please see linked examples of such agreements. Will the State consider use of such pre-existing, agreed upon terms and conditions in lieu of the legal terms and conditions set forth in RFP #DS-07?	Ts & Cs	NYSED will not substitute the requirements of a different agreement to this RFP. All vendors will be subject to the same terms and conditions.
185	Is IP subject to the open source requirements (e.g., research algorithms for EWIF, and other algorithms)?	Ts & Cs	DDS deliverables are not subject to open source requirements, except if a proposal leverages an open source solution such as provided by the SLC.
192	Page 64, 4.11 Appendix A-Standard Clauses For NYS Contracts, Section 6 Wage and Hours Provision:  Does the requirement to pay prevailing wage in Section 6 of 4.11 Appendix A only apply to work covered by Articles 8&9 of the Labor Code, or all work? Does it only apply to work performed within New York, or to all employees engaged on the contract, wherever located?	Ts & Cs	Please consult with your attorney and/or the New York State Office of the Attorney General.
193	Page 66, 4.11 Appendix A-Standard Clauses For NYS Contracts, Section 17. Service of Process  Would it be acceptable to designate a registered agent in New York to receive service of process?	Ts & Cs	Please consult with your attorney and/or the New York State Office of the Attorney General.
287	Various requirements in Attachment 6.2 talk about parent vs. student authorization for the transfer of electronic records. Who is responsible for determining these authorizations?	Ts & Cs	NYSED is responsible for determining these authorizations and providing an associated flag in the source data. The DDS vendor is responsible for using this flag appropriately in its system functionality.

**4.2 Questions and answers applicable to BOTH RFP# DS-07 AND the related RFP# DS-08 (Education Data Portal: Content Management and System Services).**

ID	Question	Category	Final Response
23	What functionality does NYSED expect the EDP to have by April 2012 (when the "Road Show" begins)?	Scope	<p>At the time that statewide and regional demonstrations of Data Dashboard vendor products begin (targeted in the RFP as April 2013), the CM&amp;SS vendor will need to have the Data Dashboard Selection and License Management Services operational, as described in CM&amp;SS section 1.4.14.</p> <p>DDS vendors are required to provide live product demonstrations that show all functionality and features needed to meet the set of requirements that the vendor committed to deploy by the launch of the EDP (targeted in the RFP as October 2013). As described in Section 2.3.2 of the RFP, the vendor must indicate which system requirements will be met by EDP launch within Attachment 6.2 and submit this completed spreadsheet as part of the Technical Proposal. If the vendor is unable to demonstrate certain functionality and features of the product in a live, system environment, then, with prior written approval from NYSED, the vendor must do so through some type of visualization tool/aid (e.g. functional prototype, mock-ups, or wire-frames) that provides sufficient information for the LEAs to evaluate these features as part of their Data Dashboard selections. Regardless, statewide and regional demonstrations of Data Dashboard Solutions must include at least one data view that incorporates data integration with the SLI (to</p>

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			enable identity management, access control, and data display). Prior to the launch of the EDP, all functionality and features needed to meet system requirements included in the vendor's proposal must be built, tested, and ready for NYSED's UAT sign-off and acceptance. During implementation, NYSED reserves the right to propose or request a phased approach and schedule for product releases, based on client & user needs, capacity, or other dependencies and considerations.
24	Given that the "Road Show" is currently scheduled to begin five months after Contracts are awarded, has NYSED considered pushing out the start of the "Road Show" or reducing the scope of functionality which must be available by the start of the "Road Show"?	Scope	No. For details on the scope of functionality that must be available by the start of the statewide and regional product demonstrations, see response to ID 23.

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36	Can you speak to the Contract Award criteria? Have there been any changes to the RFP language between RFP issuance and now (5/11/2012)?	RFP Process	<p>No changes to Section 3.1 ("Criteria for Evaluating Bids") of either RFP have been made. Below is a breakdown of Contract Award Criteria for both CM&amp;SS and DDS RFPs:</p> <p>The Cost Proposal for each RFP is worth 30 points. The Technical Proposal of each RFP is worth 70 points: 60 points for the Written Proposal and 10 points for the Demonstration/Presentation (as per p. 48 in the Data Dashboard Solutions RFP, p. 60 in the Content Management and System Services Solution RFP). The 60 points for the Written Proposal will be comprised of: A) System Requirements and Technical Approach (40 points), B) Experience and References (10 points), and C) Project Schedule and Staffing Plan (10 points).</p> <p>Please refer to Section 2.3.2 Technical Proposal (starts p. 40 in the Data Dashboard Solutions RFP, starts p. 54 in the Content Management and System Services Solution RFP) for details regarding each of these categories.</p>

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248	<p>We work with a number of well-qualified W/MBE's outside of New York with credentials well suited to this RFP. Our investigation in what it would take for them to get certified in New York indicates the following:</p> <p>1. Before Certification Application can be processed, the MWBE must complete the "Application for Authority" and attach a Certificate of Existence from the official who files and maintains corporate records in the jurisdiction of the corporation. (Please Note: This official is generally the Secretary of State, and many jurisdictions refer to the Certificate of Existence as a Certificate of Good Standing.) The Certificate of Existence must be dated within one year. A copy of the Application for Authority form is attached. Fee of \$225.00 and usually takes about 1 month to be processed. (Ref. <a href="http://www.dos.state.ny.us/corps/buscorp.html#appauth">http://www.dos.state.ny.us/corps/buscorp.html#appauth</a>)</p> <p>2. After the "Application for Authority" has been processed, the Certification Application needs to be completed and submitted. Currently it is taking 6-8 months to process this application.</p> <p>A 7-9 month timeframe for New York certification prior to overall contract award effectively eliminates a vast population of qualified M/WBEs. We believe this is in conflict with the overall intent and does not serve the State's best interest.</p> <p>We suggest that the requirement be amended to allow contract award to vendors with an M/WBE plan that includes those companies whose application is in process, with the restriction that their subcontract would not be executed after their New York certification.</p>	M/WBE	<p>As a threshold matter, New York has criteria for M/WBE certification that distinguishes it from other states. In particular, not-for-profit business enterprises cannot be certified in NYS, due to the ownership requirement within the M/WBE regulations. Bidders should first ascertain the corporate status of the prospective subcontractor(s) with which they plan to work.</p> <p>In the event that the prospective subcontractor(s) is/are eligible for NYS certification, bidders may seek a partial (conditional) waiver of the M/WBE participation goals for the 7-9 month certification period. The appropriate Waiver form (M/WBE 101) and all M/WBE submission documents are being posted with the Q&amp;A for convenience. The M/WBE submission documents also include a copy of the good faith efforts section of the NYS regulations.</p> <p>For prospective subcontractor(s) ineligible for NYS certification, bidders are strongly encouraged to replace them with M/WBE providers certified in NYS. The NYSED M/WBE coordinator is available throughout the procurement process and can assist bidders in finding certified providers.</p> <p>If partial or total participation is not achievable for any reason, bidders may request a partial or total waiver of NYSED's M/WBE participation goals for this procurement. In order to have such request considered, bidders must provide the documentation appropriate to the type of request set forth in the posted M/WBE checklist (contained in the M/WBE</p>

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			documents packet).
249	The 40% per year subcontracting limitation may not be in the best interest of the State. For example, to assemble and integrate the best-in-breed teacher, parent, and student dashboard, learning maps, and recommendation engine may require more than 40% in the first year. Will NYSED consider a 40% subcontracting limit over the life of the contact serves the same intent without potentially limiting the quality of the solution.	Subcontract Requirements	<p>Yes, for the DDS RFP, NYSED will allow a 40% subcontracting limit over the three-year term of the contract. Please see the revised Subcontracting form to replace the existing form found in Section 5.8.</p> <p>NYSED will allow a 60% subcontracting limit over the three-year term of the contract for the CM&amp;SS RFP. Please see the revised Subcontracting form to replace the existing form found in Section 5.8.</p>
278	The Short Outages service level defined in Section 4 c of Attachment 6.3 - Hosting Services is not an industry standard service level which may prevent the use of some cost competitive cloud service offerings in the solution. Is NY DOE open to removing this as requirement and looking at other options?	Hosting	The requirements of Attachment 6.3 - Hosting Services have been revised. Definitions of annual and monthly costs have been clarified. In section 4 (b), the maximum credit across all penalties has been adjusted to 25%. Section 4 (c) has been removed.

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281	If the NYSED does not agree with the form of these [terms and conditions] clarifications [or exceptions], would the NYSED provide alternate wording which would be acceptable to the NYSED with respect to these issues?	Ts & Cs	NYSED endeavored to provide alternatives where appropriate in the revised RFP Sections 4.10 to 4.14 posted on June 1, 2012.
282	The parties acknowledge that Contractor had/has contractual obligations to New York State as of the dates of the RFP and Proposal, and Contractor's contact with New York State related to such current obligations shall be deemed permissible contact not in violation of any term, condition or provision in this Agreement.	RFP Process	Yes, so long as such contacts do not discuss the pending RFP and procurement.
283	Non-Assignment Clause: The parties acknowledge that the purchase of standard commercial supplies or raw materials or the use of individuals performing ordinary services (such as shipping, manufacturing, programming, and the like) in the course of performance by the Contractor of its obligations under the Agreement shall not be deemed an assignment or subcontract, and no approval thereof by the NYSED is required under the Agreement. Further, it is agreed that any subcontractors named in Contractor's Proposal shall be deemed approved by the NYSED under this Agreement and that no further approval is required.	Ts & Cs	Purchase of standard commercial supplies or shipping services would not be deemed an assignment or subcontract, however provision of programming services to develop a deliverable would likely be deemed a subcontract.  Subcontractors identified in the final, negotiated, and executed contract shall be deemed approved by NYSED.
284	Could NYSED clarify the first sentence of Section 4.12 Appendix A-1, subparagraph B, which reads: "Variations in each budget category not exceeding ten percent (10%) of such category, whichever is greater, may be approved by the Commissioner of Education." The statement "whichever is greater" is unclear as there does not seem to be any other variation other than 10%.	Ts & Cs	Please see the updated version of Section 4.12 Appendix A-1, which include updated language for subparagraph B.
285	Can NYSED clarify what Section 4.12 Appendix A-1, subparagraph A, "consideration for the same costs and services provided to the State" means?	Ts & Cs	The vendor cannot be paid twice for the same work.
286	With regard to any and all Warranty provisions including but not limited to Section 4.13.5 H (System Warranty) through Section M (Breach of Warranty), the [Vendor] offers only the warranties set forth in its standard license agreements, and disclaims all other warranties.	Ts & Cs	Contractors will be required to comply with the warranties set forth in this RFP. Vendors who are unable to complete or abide by the final version of Sections 4.10 to 4.14 posted on June 1, 2012, should not respond to this RFP.