

**THE CITY OF NEW YORK  
DEPARTMENT OF INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS (the  
“Agency”)  
REQUEST FOR PROPOSALS**

**TITLE: MOBILE OUTREACH SYSTEM FOR THE MAYOR’S OFFICE OF RECOVERY  
OPERATIONS**

**PIN: 85813RQ00400**

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**IT IS ILLEGAL TO ENGAGE IN PRACTICES THAT COULD UNDERMINE OR PREVENT THE  
FAIR AWARD OF A CONTRACT RELATED TO THIS SOLICITATION.**

**THE COMPTROLLER OF THE CITY OF NEW YORK IS CHARGED WITH THE AUDIT OF ALL NEW YORK CITY CONTRACTS. ANY  
CONTRACTOR WHO BELIEVES THAT THERE HAS BEEN UNFAIRNESS, FAVORITISM OR IMPROPRIETY IN THE PROPOSAL PROCESS  
SHOULD INFORM THE COMPTROLLER OF THE CITY OF NEW YORK, OFFICE OF CONTRACT ADMINISTRATION, ONE CENTRE  
STREET, ROOM 835, NEW YORK, NEW YORK 10007; TELEPHONE NUMBER 212-669-2797**

**SECTION I - TIMETABLE**

**AUTHORIZED AGENCY CONTACT PERSON**

Proposers are advised that the Authorized Agency Contact Person for all matters concerning this Request for Proposals is:

**Name:** Jennie Torres  
**Title:** Director of Procurement  
**Mailing Address:** 255 Greenwich Street, 9th Floor  
New York, New York 10007  
**Telephone:** (212)788-6263  
**E-Mail Address:** JTorres@doitt.nyc.gov

**A. Release Date of this Request for Proposals: Friday, March 15, 2013**

All questions and requests for additional information concerning this RFP should be directed to Jennie Torres, the Authorized Agency Contact Person, at:

**Telephone #:** (212)788-6263  
**E-Mail Address:** JTorres@doitt.nyc.gov

**B. Proposal Due Date and Time and Location:**

**oo Date:** April 4, 2013  
**oo Time:** 3:00 PM (EST)  
**oo Location:** Proposals shall be submitted to DoITT located at 255 Greenwich Street, 9<sup>th</sup> Floor, New York, NY 10007.

E-mailed or faxed proposals will not be accepted by the Agency.

Proposals received at this Location after the Proposal Due Date and Time are late and shall not be accepted by the Agency, except as provided under New York City's Procurement Policy Board Rules. The Agency will consider requests made to the Authorized Agency Contact Person to extend the Proposal Due Date and Time prescribed above. However, unless the Agency issues a written addendum to this RFP which extends the Proposal Due Date and Time for all proposers, the Proposal Due Date and Time prescribed above shall remain in effect.

**C. Last Day to Submit Questions**

**oo Date:** March 25, 2013  
**oo Time:** 3:00 PM (EST)

**D. Anticipated Contract Start Date: May 2013**

## **SECTION II - SUMMARY OF THE REQUEST FOR PROPOSALS**

### **A. Purpose of RFP**

On behalf of the NYC Mayor's Housing Recovery Office, the Department of Information Technology and Telecommunications ("DoITT") is seeking an appropriately qualified vendor to provide a flexible web-based platform to communicate with individuals over mobile channels (SMS, phone and mobile web) for the purposes of collecting situational information from individuals. The vendor will provide a mobile outreach system with capabilities to effectively communicate with displaced families and individuals and advance program objectives for the Mayor's Office of Recovery Operations.

### **B. Anticipated Contract Term**

It is anticipated that the term of the contract awarded from this RFP will be for six (6) months from the Agency's notice to proceed. The Agency reserves the right, prior to contract award, to determine the length of the initial contract term and each option to renew, if any.

### **C. Anticipated Payment Structure**

It is anticipated that the payment structure of the contract awarded from this RFP will be based on a combination of fees tied to a not-to-exceed lump sum amount. However, the Agency will consider proposals to structure payments in a different manner and reserves the right to select any payment structure that is in the City's best interest. It is anticipated that the maximum total of the contract shall be \$25,000.00.

### **SECTION III - SCOPE OF SERVICES**

#### **A. Agency Goals and Objectives for this RFP**

The Agency's goals and objectives for this RFP are:

- To obtain access to a flexible web-based platform allowing the Agency to provide outreach, management and tracking of all mobile communications (SMS, phone and mobile web) with displaced families and individuals and advance program objectives for the Mayor's Office of Recovery Operations.
- To provide the Agency with the ability to collect situation information from individuals such as driving specifications such as attending as attending workshops or placing phone calls and tracking all data and interactions in real time.
- To ensure that the archived records are preserved, documented and easily retrievable, in a manner suitable for Agency use.

#### **B. Agency Assumptions Regarding Contractor Approach**

The Agency's assumptions regarding which approach will most likely achieve the goals and objectives set out above are:

##### ***General Mobile Communication Platform Requirements:***

- Provide initial system setup, including but not limited to training session to review the procedures and the Agency strategy.
- Provide a communication platform that has the ability for the Agency to upload its own list of approximately 100,000 customers and send and receive messages from a shared short code.
- Ability to collect our own specific data from SMS messages, and trigger follow up messaging based on collected data set.
- The mobile communication system should have "Mobile-CRM" capabilities to get the right people, the right message - from a broadcast and response-type interaction.
- Geo-query service so that users can find the nearest available resources.
- Integrated ability to trigger incoming phone calls from customers and collect incoming voicemails as mp3 files.
- It is essential for the system to be able to launch each of the campaigns quickly and independently of other campaigns that may be running concurrently.
- The City should have the ability to manage the system in-house and also have full support including best-practice expertise from the Contractor.

### ***Intellectual Property***

- The City would retain all copyright and ownership rights in all data that the Contractor stores and archives on its behalf. The Contractor would have no ownership rights in any City data stored or archived by the Contractor, and would use the City's data, as well as the City's user names and passwords for third-party sites, for the sole purpose of providing to the City the services specified in this RFP.

### ***Training and Support***

- The Contractor would provide training for the Agency users, on the Contractor's user interface and features, including any updates. Such training would be provided on a schedule determined by DoITT. The Contractor would also provide training materials to the City to assist with the use of the Contractor's services. The City will not compensate the Contractor for any travel expenses.
- The Contractor would provide and maintain a staffed Help Desk to accept service requests and log service calls during normal business hours. The City prefers coverage from 8:00 a.m. through 7:00 p.m. (EST), Monday through Friday, excluding City holidays). The Help Desk would be accessible through a local or toll-free telephone call. The Contractor would also provide the City with an up-to-date list of contacts and their telephone numbers, to be used in the event of an emergency occurring outside of normal business hours. The Contractor would promptly notify the City in writing of changes to this list of contacts.

### ***Data Migration and Backup***

- The Contractor would make at least one copy of stored data (kept confidential in the same manner as the original) for archival back-up and disaster recovery purposes.
- Upon request by the City, and at the end of the term of the contract awarded from this RFP, the Contractor would make available to the City a complete and secure (i.e. encrypted and appropriately authenticated) download file of City data in a format agreed upon by the City and the Contractor, including all schema and transformation definitions and/or delimited text files with documented, detailed schema definitions, along with attachments in their native format. The Contractor would deliver this data to the City using a physical storage medium provided by the City. The Contractor would continue to grant the City and its agencies access to any City data archived by the Contractor for a period of at least six (6) months from the end of the Contract Term. The data being returned would contain no known viruses.
- Upon request by the City, the Contractor would destroy the City data specified in the request.

### ***Technology Standards***

- The Contractor would warrant and represent that the technology utilized by Contractor to provide services under the agreement resulting from this RFP shall be in accordance with industry standards
- The City has a substantial interest in state-of-the-art technology that offers improved performance and more efficient and cost-effective ways to meet the City's requirements. The Contractor shall promptly inform the Department of improvements to Contractor's existing technologies and the expected and actual availability and implementation of new technologies by the Contractor that are relevant to the services to be provided by the Contractor. At the Department's request and at no additional charge to the City, the Contractor shall improve the applicable technologies by adding new features, functions, revisions, enhancements, modifications or improvements during the term of the agreement resulting from this RFP.

**D. Compliance with Local Law 34 of 2007**

Pursuant to Local Law 34 of 2007, amending the City's Campaign Finance Law, the City is required to establish a computerized database containing the names of any "person" that has "business dealings with the city" as such terms are defined in the Local Law. In order for the City to obtain necessary information to establish the required database, vendors responding to this solicitation are required to complete the attached Doing Business Data Form and return it with this proposal, and should do so in a separate envelope. (If the responding vendor is a proposed joint venture, the entities that comprise the proposed joint venture must each complete a Data Form.) If the City determines that a vendor has failed to submit a Data Form or has submitted a Data Form that is not complete, the vendor will be notified by the agency and will be given four (4) calendar days from receipt of notification to cure the specified deficiencies and return a complete Data Form to the agency. Failure to do so will result in a determination that the proposal is non-responsive. Receipt of notification is defined as the day notice is e-mailed or faxed (if the vendor has provided an e-mail address or fax number), or no later than five (5) days from the date of mailing or upon delivery, if delivered.

**E. Electronic Funds Transfer**

a) In accordance with Section 6-107.1 of the New York City Administrative Code, the Vendor agrees to accept payments under this Contract from the City by electronic funds transfer. An electronic funds transfer is any transfer of funds, other than a transaction originated by check, draft or similar paper instrument, which is initialed through an electronic terminal, telephonic instrument or computer or magnetic tape so as to order, instruct or authorize a financial institution to debit or credit an account. Prior to the first payment made under this Contract, the Vendor shall designate one financial institution or other authorized payment agent and shall complete the attached "EFT Vendor Payment Enrollment Form" in order to provide the Commissioner of Finance with information necessary for the Vendor to receive electronic funds transfer payments through the designated financial institution or authorized payment agent. The crediting of the amount of a payment to the appropriate account on the books of a financial institution or other authorized payment agent designated by the Vendor shall constitute full satisfaction by the City for the amount of the payment under this agreement. The account information supplied by the Vendor to facilitate the electronic funds transfer shall remain confidential to the fullest extent provided by law.

(b) The Department head may waive the application of the requirements herein to payments on contracts entered into pursuant to §315 of the City Charter. In addition, the Commissioner of the Department of Finance and the Comptroller may jointly issue standards pursuant to which the contracting department may waive the requirements here under for payments in the following circumstances: (i) for individuals or classes of individuals for whom compliance imposes a hardship; (ii) for classifications or types of checks; or (iii) in other circumstances as may be necessary in the interest of the City.

**F. Iran Divestiture Compliance Rider And Certification**

The Iran Divestment Act of 2012, effective as of April 12, 2012, is codified at State Finance Law ("SFL") §165-a and General Municipal Law ("GML") §103-g. The Iran Divestment Act, with certain exceptions, prohibits municipalities, including the City, from entering into contracts with persons engaged in investment activities in the energy sector of Iran. Pursuant to the terms set forth in SFL §165-a and GML §103-g, a person engages in investment activities in the energy sector of Iran if:

- (a) the person provides goods or services of twenty million dollars or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or

products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or

(b) The person is a financial institution that extends twenty million dollars or more in credit to another person, for forty-five days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list created pursuant to paragraph (b) of subdivision three of Section 165-a of the State Finance Law and maintained by the Commissioner of the Office of General Services.

A bid or proposal shall not be considered for award nor shall any award be made where the bidder or proposer fails to submit a signed and verified bidder's certification.

Each bidder or proposer must certify that it is not on the list of entities engaged in investment activities in Iran created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law. In any case where the bidder or proposer cannot certify that they are not on such list, the bidder or proposer shall so state and shall furnish with the bid or proposal a signed statement which sets forth in detail the reasons why such statement cannot be made. The City of New York may award a bid to a bidder who cannot make the certification on a case by case basis if:

(1) The investment activities in Iran were made before the effective date of this section (i.e., April 12, 2012), the investment activities in Iran have not been expanded or renewed after the effective date of this section and the person has adopted, publicized and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran: or

(2) The City makes a determination that the goods or services are necessary for the City to perform its functions and that, absent such an exemption, the City would be unable to obtain the goods or services for which the contract is offered. Such determination shall be made in writing and shall be a public document.

#### **G. Non-Disclosure Agreement**

Contractor and Individuals who may have access to **any Confidential Information** or **City Information Assets**, in the course of carrying out their responsibilities or job function must complete the **NON-DISCLOSURE AGREEMENT**. (see Attachment G)

## **SECTION IV - FORMAT AND CONTENT OF THE PROPOSAL**

**Instructions:** Proposers should provide all information required in the format below. The proposal should be typed on both sides of 8 ½" X 11" paper. The City of New York requests that all proposals be submitted on paper with no less than 30% postconsumer material content, i.e., the minimum recovered fiber content level for reprographic papers recommended by the United States Environmental Protection Agency (for any changes to that standard please consult: <http://www.epa.gov/cpg/products/printing.htm>). Pages should be paginated. The proposal will be evaluated on the basis of its content, not length. Failure to comply with any of these instructions will not make the proposal non-responsive.

### **A. Proposal Format**

The Proposer should submit one (1) original (i.e., signed) set and five (5) hard-copy duplicates of the Proposal. The originals of the Technical and Price Proposal should be clearly labeled "Original" on the cover.

To facilitate the evaluation process, it is requested that the Proposer also submit a total of **four (4) CD-ROMs – two (2) of the CD-ROMs should contain an electronic copy of the Technical Proposal, and two (2) of the CD-ROMs should contain an electronic copy of the Price Proposal.** These electronic copies should be identical to the original paper proposals, and only the Technical Proposal should be in PDF format.

Each CD-ROM and jewel case must clearly indicate the name of the Proposer, name of this RFP, PIN (procurement identification number), and whether the CD-ROM contains a technical or price proposal.

It is requested that each proposal be one comprehensive electronic file and not be segmented into multiple files (i.e., we prefer not to have a separate file for each section of the Proposal).

The City requests that the Proposer also submits the Price Proposal in either Excel format or the format provided by the City, to facilitate the City's analysis of the numbers provided. The Excel files can be included on the two (2) Price Proposal CD-ROMs.

The Proposer should submit the original and copies of its Technical Proposal in a sealed envelope or package separate from the sealed envelope or package containing its Price Proposal. The appropriate CD-ROMs should be included in each sealed envelope or package.

Clearly label each envelope or package with the name of the Proposer, the title and PIN (project identification number) of this RFP and indicate which section is contained in each envelope or package (i.e., indicate whether the envelope or package contains the Technical Proposal or the Price Proposal).

**No reference to pricing should be made in the Cover Letter or Technical Proposal. Disclosing pricing in these sections may be grounds for disqualification.**

#### **1. Proposal Cover Letter**

The Proposal Cover Letter form (Attachment A) transmits the proposer's Proposal Package to the Agency. It should be completed, signed and dated by an authorized representative of the proposer.

#### **2. Technical Proposal**

The Technical Proposal is a clear, concise narrative which addresses the following:

**a. Experience**

Describe the successful relevant experience of the proposer, each proposed sub-contractor if any, and the proposed key staff in providing the work described in Section III of this RFP. Specifically address the following:

- Demonstrate the successful relevant experience of the proposer, each proposed subcontractor, if any, and key staff within the last one (1) year in providing mobile communication capabilities to clients. Describe the Proposer's experience, if any, in providing such services to government entities or public authority clients. Indicate measures of size and activity, such as the number of clients receiving the same or similar service. Indicate the applications or products that the proposer has provided during this period, with an indication of how many clients have required web based mobile communication platform.
- Demonstrate the successful relevant experience, of the proposer, each proposed subcontractor, if any, and key staff within the last two (2) years in providing services specifically designed to help to collect situational information from individuals, process and present data. Indicate measures of size and activity, such as the number of clients receiving the same or similar service.

In addition:

- Attach a listing of at least three (3) relevant references, including the name of the reference entity, a brief statement describing the relationship between the proposer or proposed sub-contractor, as applicable, and the reference entity, and the name, title and telephone number of a contact person at the reference entity, for the proposer and each proposed sub-contractor if any.
- Attach for each key staff position a resume and/or description of the qualifications that will be required. (In addition, provide a statement certifying that the proposed key staff will be available for the duration of the project.)

**b. Organizational Capability**

Demonstrate the proposer's organizational (i.e., technical, managerial and financial) capability to provide the work described in Section III. Specifically address the following:

- a. Give a brief overview of the Proposer's company, with products and services offered.
- b. Describe the proposer's support or help desk capabilities. Include the hours of support, the company's escalation or tiered support structure, and the number of staff providing support services, either full-time or in addition to other services.
- c. Describe the proposer's staff training, staff certification and staff retention policies, as well as its internal monitoring measures and procedures. Demonstrate how internal monitoring is used to assure quality and to identify program, personnel and fiscal issues.

In addition:

- Attach a chart showing where, or an explanation of how, the proposed services will fit into the proposer's organization.
- Attach a copy of the proposer's latest audit report or certified financial statement, or a statement as to why no report or statement is available.

### **c. Proposed Approach**

Describe in detail how the proposer will provide the work described in Section III of this RFP and demonstrate that the proposer's proposed approach will fulfill the Agency's goals and objectives. Specifically address the following:

- Describe the proposer's approach in fulfilling the Agency's goal of effectively communicating with displaced families and individuals and advance program objectives over mobile channels (SMS, phone and mobile web) for the purposes of collecting situational information.
- Describe the proposer's approach in distributing messages quickly and securely to the targeted audience.
- Describe the proposer's approach in providing Geo-query services and triggering incoming phone calls.
- Describe the proposer's approach to ensuring that stored and archived data is secure. Discuss the proposer's security testing policies. Discuss the proposer's use of data encryption for transmitted data.
- Describe the proposer's approach to training City staff in use of its services. Discuss the format of training (i.e., webinar, in-person, etc.), the duration of training, and the format of educational materials (i.e., help guides, online videos, etc.).
- Provide system demo, network diagram, screenshots, or link to a site providing a sample of the proposed platform. The vendor should provide any other documentation which deems to be helpful in demonstrating communication system capabilities.
- Provide a proposed project staffing roster and position descriptions (roles/responsibilities) of key staff for anticipated staffing needs over the duration of the Contract.

The Agency's assumptions regarding contractor approach represent what the Agency believes to be most likely to achieve its goals and objectives. However, proposers are encouraged to propose an approach that they believe will most likely achieve the Agency's goals and objectives. Proposers may also propose more than one approach. However, if an alternative approach affects other areas of the proposal such as experience, organizational capability or price, that alternative approach should be submitted as a complete and separate proposal providing all the information specified in Section IV of this RFP.

### **3. Price Proposal**

Proposers are encouraged to propose innovative payment structures. The Agency reserves the right to select any payment structure that is in the City's best interest. For the purposes of comparison, proposers should submit a Price Proposal that meets the standards of Sections IV(3)(a) and IV(3)(b), below.

#### **a. Proposed Pricing**

The Price Proposal should include each of the following for providing the work described in Section III of this RFP:

- The proposed rate per unit of service and total offering price in the format prescribed in the Price Proposal form attached as Attachment B.

### **4. Acknowledgment of Addenda**

The Acknowledgment of Addenda form (Attachment C) serves as the proposer's acknowledgment of the

receipt of addenda to this RFP which may have been issued by the Agency prior to the Proposal Due Date and Time, as set forth in Section I (D), above. The proposer should complete this form as instructed on the form.

**B. Proposal Package Contents (“Checklist”)**

The Proposal Package should contain the following materials. Proposers should utilize this section as a “checklist” to assure completeness prior to submitting their proposal to the Agency.

1. A sealed inner envelope labeled “Program Proposal,” containing one original set and the stated number (in the parentheses) of duplicate sets of the documents listed below in the following order:
  - Proposal Cover Letter Form (Attachment A)
  - Technical Proposal
    - oo Narrative (5)
    - oo References for the Proposer and, if applicable, each Sub-Contractor (5)
    - oo Resumes and/or Description of Qualifications for Key Staff Positions (5)
    - oo Organizational Chart (5)
    - oo Audit Report or Certified Financial Statement or a statement as to why no report or statement is available (5)
  - Acknowledgment of Addenda Form (Attachment C)
2. A separate sealed inner envelope labeled “Price Proposal” containing one original set and five (5) duplicate sets of the Price Proposal.
  - Price Proposal Form (Attachment B) (5)
3. All proposals must contain a **third sealed inner envelope** labeled “Doing Business Data Form” containing an original, completed Doing Business Data Form (see Attachment D).
4. All proposals must include a **fourth sealed inner envelope** labeled “Iran Divestment Compliance Certification” containing an original completed Certification (see Attachment F)
5. A sealed outer envelope, enclosing the four (4) sealed inner envelopes. The sealed outer envelope should have two labels containing:
  - The proposer’s name and address, the Title and PIN # of this RFP and the name and telephone number of the Proposer’s Contact Person.
  - The name, title and address of the Authorized Agency Contact Person.

## **SECTION V - PROPOSAL EVALUATION AND CONTRACT AWARD PROCEDURES**

### **A. Evaluation Procedures**

All proposals accepted by the Agency will be reviewed to determine whether they are responsive or non-responsive to the requisites of this RFP. Proposals that are determined by the Agency to be non-responsive will be rejected. The Agency's Evaluation Committee will evaluate and rate all remaining proposals based on the Evaluation Criteria prescribed below. The Agency reserves the right to conduct site visits and/or interviews and/or to request that proposers make presentations and/or demonstrations, as the Agency deems applicable and appropriate. Although discussions may be conducted with proposers submitting acceptable proposals, the Agency reserves the right to award contracts on the basis of initial proposals received, without discussions; therefore, the proposer's initial proposal should contain its best technical and price terms.

### **B. Evaluation Criteria**

- Demonstrated quantity and quality of successful relevant experience. 10%
- Demonstrated level of organizational capability. 30%
- Quality of proposed approach. 60%

### **C. Basis for Contract Award**

A contract will be awarded to the responsible proposer whose proposal is determined to be the most advantageous to the City, taking into consideration the price and such other factors or criteria which are set forth in this RFP. Contract award shall be subject to the timely completion of contract negotiations between the Agency and the selected proposer.

## **SECTION VI - GENERAL INFORMATION TO PROPOSERS**

**A. Complaints.** The New York City Comptroller is charged with the audit of contracts in New York City. Any proposer who believes that there has been unfairness, favoritism or **impropriety in the proposal process should inform the Comptroller**, Office of Contract Administration, 1 Centre Street, Room 835, New York, NY 10007; the telephone number is (212) 669-3000. In addition, the New York City Department of Investigation should be informed of such complaints at its Investigations Division, 80 Maiden Lane, New York, NY 10038; the telephone number is (212) 825-5959.

**B. Applicable Laws.** This Request for Proposals and the resulting contract award(s), if any, unless otherwise stated, are subject to all applicable provisions of New York State Law, the New York City Administrative Code, New York City Charter and New York City Procurement Policy Board (PPB) Rules. A copy of the PPB Rules may be obtained by contacting the PPB at (212) 788-7820.

**C. General Contract Provisions.** Contracts shall be subject to New York City's general contract provisions, in substantially the form that they appear in "Appendix A—General Provisions Governing Contracts for Consultants, Professional and Technical Services" or, if the Agency utilizes other than the formal Appendix A, in substantially the form that they appear in the Agency's general contract provisions. A copy of the applicable document is available through the Authorized Agency Contact Person.

**D. Contract Award.** Contract award is subject to each of the following applicable conditions and any others that may apply: New York City Fair Share Criteria; New York City MacBride Principles Law; submission by the proposer of the requisite New York City Department of Business Services/Division of Labor Services Employment Report and certification by that office; submission by the proposer of the requisite VENDEX Questionnaires/Affidavits of No Change and review of the information contained therein by the New York City Department of Investigation; all other required oversight approvals; applicable provisions of federal, state and local laws and executive orders requiring affirmative action and equal employment opportunity; and Section 6-108.1 of the New York City Administrative Code relating to the Local Based Enterprises program and its implementation rules.

**E. Proposer Appeal Rights.** Pursuant to New York City's Procurement Policy Board Rules, proposers have the right to appeal Agency non-responsiveness determinations and Agency non-responsibility determinations and to protest an Agency's determination regarding the solicitation or award of a contract.

**F. Multi-Year Contracts.** Multi-year contracts are subject to modification or cancellation if adequate funds are not appropriated to the Agency to support continuation of performance in any City fiscal year succeeding the first fiscal year and/or if the contractor's performance is not satisfactory. The Agency will notify the contractor as soon as is practicable that the funds are, or are not, available for the continuation of the multi-year contract for each succeeding City fiscal year. In the event of cancellation, the contractor will be reimbursed for those costs, if any, which are so provided for in the contract.

**G. Prompt Payment Policy.** Pursuant to the New York City's Procurement Policy Board Rules, it is the policy of the City to process contract payments efficiently and expeditiously.

**H. Prices Irrevocable.** Prices proposed by the proposer shall be irrevocable until contract award, unless the proposal is withdrawn. Proposals may only be withdrawn by submitting a written request to the Agency prior to contract award but after the expiration of 90 days after the opening of proposals. This shall not limit the discretion of the Agency to request proposers to revise proposed prices through the submission of best and final offers and/or the conduct of negotiations.

**I. Confidential, Proprietary Information or Trade Secrets.** Proposers should give specific attention to the identification of those portions of their proposals that they deem to be confidential, proprietary information or trade secrets and provide any justification of why such materials, upon request, should not be disclosed by the City. Such information must be easily separable from the non-confidential sections of the proposal. All information not so identified may be disclosed by the City.

**J. RFP Postponement/Cancellation.** The Agency reserves the right to postpone or cancel this RFP, in whole or in part, and to reject all proposals.

**K. Proposer Costs.** Proposers will not be reimbursed for any costs incurred to prepare proposals.

**L. Vendex Fees.** Pursuant to PPB Rule 2-08(f)(2), the contractor will be charged a fee for the administration of the Vendex system, including the Vendor Name Check Process, if a Vendor Name Check review is required to be conducted by the Department of Investigation. The contractor shall also be required to pay the applicable fees for any of its subcontractors for which Vendor Name Check reviews are required. The fee(s) will be deducted from payments made to the contractor under the contract. For contracts with an estimated value of less than or equal to \$1,000,000, the fee will be \$175. For contracts with an estimated value of greater than \$1,000,000, the fee will be \$350. The estimated value for each contract resulting from this RFP is estimated to be (less than or equal to \$1 million) (above \$1 million).

**M. Charter Section 312(a) Certification. [IF APPLICABLE]**

The Agency has determined that the contract(s) to be awarded through this Request for Proposals will not result in the displacement of any New York City employee within this Agency.

\_\_\_\_\_  
(Commissioner) (Agency Chief Contracting Officer)

\_\_\_\_\_  
Date

**Message from the New York City Vendor Enrollment Center**  
**Get on mailing lists for New York City contract opportunities!**  
**Submit a NYC-FMS Vendor Application - Call 212/857-1680**

**ATTACHMENT A**

**PROPOSAL COVER LETTER**

**RFP TITLE: Request for Proposals for Mobile Outreach System for Mayor's Office of Recovery Operations**

**PIN: 85813RQ00400**

**Proposer:**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_  
\_\_\_\_\_

**Tax Identification #:** \_\_\_\_\_

**Proposer's Contact Person:**

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Telephone #:** \_\_\_\_\_

**Proposer's Authorized Representative:**

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

Is the response printed on both sides, on recycled paper containing the minimum percentage of recovered fiber content as requested by the City in the instructions to this solicitation?

Yes       No

**ATTACHMENT B**

**PRICE PROPOSAL FORM**

**PIN: 85813RQ00400**

**Unit Prices -**

List the unit price for the provision of services. If the cost is included as part of another unit price, then give the price as "0".

***A. Setup and Training***

	<b>Non Recurring Cost</b>
Setup and Training	\$

***B. Monthly Software License***

<b>From</b>	<b>To</b>	<b>Cost per subscriber</b>
0	50,000	\$
50,001	100,000	\$
100,001	200,000	\$

***C. Monthly Messaging Fees\****

<b>From</b>	<b>To</b>	<b>Cost per SMS</b>
0	100,000	\$
100,001	250,000	\$
250,001	500,000	\$
500,001	1,000,000	\$

***C. Additional Services:***

Picture Messages	\$	Per Picture Message
VOIP	\$	Per Minute

\*The Messaging Fee is for outbound messages only. The inbound messages are free.

**Proposer Information:**

**Date:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Email Address:** \_\_\_\_\_

**Tax Identification #:** \_\_\_\_\_

**Authorized Representative:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**ATTACHMENT C**

**ACKNOWLEDGMENT OF ADDENDA**

**PIN: 85813RQ00400**

**Instructions:** The Proposer is to complete either Part I or Part II of this form, whichever is applicable, and include the signed and dated form with their Technical Proposal submission. This form serves as the Proposer's acknowledgment of the receipt of the Addenda to this Request for Proposals which may have been issued by the City prior to the Proposal Due Date and Time.

**Part I: Check Here if Applicable:** \_\_\_\_\_

Listed below are the dates of issue for each Addendum received concerning this Solicitation Document:

Addendum # 1, dated: \_\_\_\_/\_\_\_\_/\_\_\_\_      Addendum # 2, dated: \_\_\_\_/\_\_\_\_/\_\_\_\_

Addendum # 3, dated: \_\_\_\_/\_\_\_\_/\_\_\_\_      Addendum # 4, dated: \_\_\_\_/\_\_\_\_/\_\_\_\_

Addendum # 5, dated: \_\_\_\_/\_\_\_\_/\_\_\_\_      Addendum # 6, dated: \_\_\_\_/\_\_\_\_/\_\_\_\_

Addendum # 7, dated: \_\_\_\_/\_\_\_\_/\_\_\_\_      Addendum # 8, dated: \_\_\_\_/\_\_\_\_/\_\_\_\_

Addendum # 9, dated: \_\_\_\_/\_\_\_\_/\_\_\_\_      Addendum # 10, dated: \_\_\_\_/\_\_\_\_/\_\_\_\_

Addendum # 11, dated: \_\_\_\_/\_\_\_\_/\_\_\_\_      Addendum # 12, dated: \_\_\_\_/\_\_\_\_/\_\_\_\_

**Part II:      Check Here if Applicable:** \_\_\_\_\_

No addendum was received in connection with this Request for Proposals.

Company Name: \_\_\_\_\_

Authorized Representative:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## ATTACHMENT H

### STANDARD CONTRACT TERMS AND CONDITIONS

#### Scope of Services:

As directed by the Department, Contractor shall provide the following services:

All services shall be performed only as expressly approved in advance by the Department.

#### Fees and Expenses:

The Department desires to retain Contractor's services to perform the foregoing tasks, and agrees to compensate Contractor an amount not to exceed \$ \_\_\_\_\_ in accordance with the rates specified in Attachment PRC. Contractor has the obligation of informing the Department if and when this not-to-exceed amount is being approached, and the Department reserves the right to increase it.

#### Insurance:

All insurance policies required by this agreement or any of its appendices or other attachments shall be maintained with companies that may lawfully issue the required policy and have an A.M. Best rating of at least A-7 or a Standard and Poor's rating of at least AA, unless prior written approval is obtained from the Mayor's Office of Operations.

#### Conflicts of Interest:

During the term of this agreement, Contractor will be permitted to represent clients other than the City in matters involving the City, or being heard before City agencies, where such matters are not related to the subject matter of this contract and where, in the sole opinion of the City, such representation does not create a conflict of interest. In light of this restriction, Contractor shall disclose to the City, as soon as is practicable, the identity of any client the Contractor represents or proposes to represent, in any matter involving the City, or being heard by any City agency with a short description of the matter. Thereafter, where the City, in its sole discretion, determines that a conflict of interest related to work performed, or to be performed, under this contract exists in Contractor's representation or counseling of another client, or proposed representation or counseling of another client, the City shall inform Contractor that it has determined such a conflict exists and Contractor shall discontinue or decline its representation of the other client.

#### Termination of Agreement:

It is understood that the Department may terminate Contractor's services upon the presentation of a written notice advising of termination, and that such notice shall be effective at the close of business on the day presented. In the event of termination of this contract for any reason, excluding fraud, Contractor will be paid for all services satisfactorily rendered by the firm up to the date of termination.

Upon termination of this contract, Contractor, at no cost to the City, shall provide reasonable cooperation to facilitate the transition and transfer of the Matter to any successor or contractors or to the Department, including execution of all forms necessary, to affect such transfer of legal representation in accordance with the Department's instructions. Contractor shall promptly deliver to the Department, or its designee, all files, records and other documentation and information concerning matters under this contract.

**Invoicing:**

Contractor's bills must be addressed to the New York City Department of Information Technology and Telecommunications, Audits and Accounts, 255 Greenwich, New York, NY 10007. Invoices shall include time records substantiating the services rendered, in a form and in such detail as may be requested by the Department. Contractor's invoices must include the matter name for which services were performed, Invoices for services rendered and/or for expense reimbursement shall, at a minimum, be submitted on a monthly basis.

**Procurement Policy Board Rules:**

This contract is subject to the City of New York Procurement Policy Board Rules ("PPB Rules") in effect at the time the contract was entered into. In the event of a conflict between said PPB Rules and a provision of this contract, the PPB Rules shall take precedence.

**Prompt Payment Policy:**

Payments made under this Agreement shall be governed by the Prompt Payment Provision of the PPB Rules that was in effect at the time the contract was entered into.

**Electronic Funds Transfer:**

A. In accordance with Section 6-107.1 of the New York City Administrative Code, the Contractor agrees to accept payments under this Agreement from the City by electronic funds transfer. An electronic funds transfer is any transfer of funds, other than a transaction originated by check, draft or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument or computer or magnetic tape so as to order, instruct or authorize a financial institution to debit or credit an account. Prior to the first payment made under this Agreement, Contractor shall designate one financial institution or other authorized payment agent and shall complete the attached "EFT Vendor Payment Enrollment Form" in order to provide the Commissioner of Finance with information necessary for Contractor to receive electronic funds transfer payments through the designated financial institution or authorized payment agent. The crediting of the amount of a payment to the appropriate account on the books of a financial institution or other authorized payment agent designated by the Contractor shall constitute full satisfaction by the City for the amount of the payment under this agreement. The account information supplied by the Contractor to facilitate the electronic funds transfer shall remain confidential to the fullest extent provided by law.

B. The agency head may waive the application of the requirements herein to payments on contracts entered into pursuant to §315 of the City Charter. In addition, the Commissioner of the Department of Finance and the Comptroller may jointly issue standards pursuant to which the contracting agency may waive the requirements hereunder for payments in the following circumstances: (i) for individuals or classes of individuals for whom compliance imposes a hardship; (ii) for classifications or types of checks; or (iii) in other circumstances as may be necessary in the interest of the City.

**Confidentiality:**

Contractor agrees that all of the reports, information, or data furnished to, or prepared, assembled or used by the Contractor under this Agreement are to be held confidential, and not divulged to any individual or entity, or published in any manner, without the prior written approval of the Department.

## **Resolution of Disputes:**

1. Except as provided in 1(a) and 1(b) below, all disputes between the City and the vendor that arise under, or by virtue of, this contract shall be finally resolved in accordance with the provisions of this section and Section 4-09 of the Rules of the Procurement Policy Board (“PPB Rules”). This procedure shall be the exclusive means of resolving any such disputes. This section shall not apply to disputes concerning matters dealt with in other sections of the PPB Rules.
  - (a) This section shall not apply to disputes concerning matters dealt with in other sections of the PPB Rules or to disputes involving patents, copyrights, trademarks, or trade secrets (as interpreted by the courts of New York State) relating to proprietary rights in computer software.
  - (b) For construction and construction-related services this section shall apply only to disputes about the scope of work delineated by the contract, the interpretation of contract documents, the amount to be paid for extra work or disputed work performed in connection with the contract, the conformity of the vendor’s work to the contract, and the acceptability and quality of the vendor’s work; such disputes arise when the Engineer, Resident Engineer, Engineering Audit Officer, or other designee of the Commissioner makes a determination with which the vendor disagrees.
2. All determinations required by this section shall be clearly stated, with a reasoned explanation for the determination based on the information and evidence presented to the party making the determination. Failure to make such determination within the time required by this section shall be deemed a non-determination without prejudice that will allow application to the next level.
3. During such time as any dispute is being presented, heard, and considered pursuant to this section, the contract terms shall remain in full force and effect and the vendor shall continue to perform work in accordance with the contract and as directed by the Agency Chief Contracting Officer (“ACCO”) or other designee of the Commissioner.
4. Presentation of Dispute to Agency Head.
  - (a) Notice of Dispute and Agency Response. The vendor shall present its dispute in writing (“Notice of Dispute”) to the Agency Head within the time specified herein, or, if no time is specified, within thirty (30) days of receiving written notice of the determination or action that is the subject of the dispute. This notice requirement shall not be read to replace any other notice requirements contained in the contract. The Notice of Dispute shall include all the facts, evidence, documents, or other basis upon which the vendor relies in support of its position, as well as a detailed computation demonstrating how any amount of money claimed by the vendor in the dispute was arrived at. Within thirty (30) days after receipt of the complete Notice of Dispute, the ACCO or other designee of the Commissioner shall submit to the Agency Head all materials he or she deems pertinent to the dispute. Following initial submissions to the Agency Head, either party may demand of the other the production of any document or other material the demanding party believes may be relevant to the dispute. The requested party shall produce all relevant materials that are not otherwise protected by a legal privilege recognized by the courts of New York State. Any question of relevancy shall be determined by the Agency Head whose decision shall be final. Willful failure of the vendor to produce any requested

material whose relevancy the vendor has not disputed, or whose relevancy has been affirmatively determined, shall constitute a waiver by the vendor of its claim.

- (b) **Agency Head Inquiry.** The Agency Head shall examine the material and may, in his or her discretion, convene an informal conference with the vendor and the ACCO and, in the case of construction or construction-related services, the Engineer, Resident Engineer, Engineering Audit Officer, or other designee of the Commissioner, to resolve the issue by mutual consent prior to reaching a determination. The Agency Head may seek such technical or other expertise as he or she shall deem appropriate, including the use of neutral mediators, and require any such additional material from either or both parties as he or she deems fit. The Agency Head's ability to render, and the effect of, a decision hereunder shall not be impaired by any negotiations in connection with the dispute presented, whether or not the Agency Head participated therein. The Agency Head may or, at the request of any party to the dispute, shall compel the participation of any other vendor with a contract related to the work of this contract and that vendor shall be bound by the decision of the Agency Head. Any vendor thus brought into the dispute resolution proceeding shall have the same rights and obligations under this section as the vendor initiating the dispute.
- (c) **Agency Head Determination.** Within thirty (30) days after the receipt of all materials and information, or such longer time as may be agreed to by the parties, the Agency Head shall make his or her determination and shall deliver or send a copy of such determination to the vendor and ACCO and, in the case of construction or construction-related services, the Engineer, Resident Engineer, Engineering Audit Officer, or other designee of the Commissioner, together with a statement concerning how the decision may be appealed.
- (d) **Finality of Agency Head Decision.** The Agency Head's decision shall be final and binding on all parties, unless presented to the Contract Dispute Resolution Board ("CDRB") pursuant to this section. The City may not take a petition to the CDRB. However, should the vendor take such a petition, the City may seek, and the CDRB may render, a determination less favorable to the vendor and more favorable to the City than the decision of the Agency Head.

5. **Presentation of Dispute to the Comptroller.** Before any dispute may be brought by the vendor to the CDRB, the vendor must first present its claim to the Comptroller for his or her review, investigation, and possible adjustment.

- (a) **Time, Form, and Content of Notice.** Within thirty (30) days of receipt of a decision by the Agency Head, the vendor shall submit to the Comptroller and to the Agency Head a Notice of Claim regarding its dispute with the agency. The Notice of Claim shall consist of (i) a brief statement of the substance of the dispute, the amount of money, if any, claimed and the reason(s) the vendor contends the dispute was wrongly decided by the Agency Head; (ii) a copy of the decision of the Agency Head, and (iii) a copy of all materials submitted by the vendor to the agency, including the Notice of Dispute. The vendor may not present to the Comptroller any material not presented to the Agency Head, except at the request of the Comptroller.
- (b) **Agency Response.** Within thirty (30) days of receipt of the Notice of Claim, the agency shall make available to the Comptroller a copy of all material submitted by the agency to the Agency Head in connection with the dispute. The agency may not present to the

Comptroller any material not presented to the Agency Head, except at the request of the Comptroller.

- (c) **Comptroller Investigation.** The Comptroller may investigate the claim in dispute and, in the course of such investigation, may exercise all powers provided in sections 7-201 and 7-203 of the New York City Administrative Code. In addition, the Comptroller may demand of either party, and such party shall provide, whatever additional material the Comptroller deems pertinent to the claim, including original business records of the vendor. Willful failure of the vendor to produce within fifteen (15) days any material requested by the Comptroller shall constitute a waiver by the vendor of its claim. The Comptroller may also schedule an informal conference to be attended by the supplier, agency representatives, and any other personnel desired by the Comptroller.
- (d) **Opportunity of Comptroller to Compromise or Adjust Claim.** The Comptroller shall have forty-five (45) days from his or her receipt of all materials referred to in 5(c) to investigate the disputed claim. The period for investigation and compromise may be further extended by agreement between the vendor and the Comptroller, to a maximum of ninety (90) days from the Comptroller's receipt of all the materials. The vendor may not present its petition to the CDRB until the period for investigation and compromise delineated in this paragraph has expired. In compromising or adjusting any claim hereunder, the Comptroller may not revise or disregard the terms of the contract between the parties.

6. **Contract Dispute Resolution Board.** There shall be a Contract Dispute Resolution Board composed of:

- (a) the chief administrative law judge of the Office of Administrative Trials and Hearings ("OATH") or his/her designated OATH administrative law judge, who shall act as chairperson, and may adopt operational procedures and issue such orders consistent with this section as may be necessary in the execution of the CDRB's functions, including, but not limited to, granting extensions of time to present or respond to submissions;
- (b) the City Chief Procurement Officer ("CCPO") or his/her designee, or in the case of disputes involving construction, the Director of the Office of Construction or his/her designee; any designee shall have the requisite background to consider and resolve the merits of the dispute and shall not have participated personally and substantially in the particular matter that is the subject of the dispute or report to anyone who so participated, and
- (c) a person with appropriate expertise who is not an employee of the City. This person shall be selected by the presiding administrative law judge from a prequalified panel of individuals, established and administered by OATH, with appropriate background to act as decision-makers in a dispute. Such individuals may not have a contract or dispute with the City or be an officer or employee of any company or organization that does, or regularly represent persons, companies, or organizations having disputes with the City.

7. **Petition to CDRB.** In the event the claim has not been settled or adjusted by the Comptroller within the period provided in this section, the vendor, within thirty (30) days thereafter, may petition the CDRB to review the Agency Head determination.

- (a) Form and Content of Petition by Vendor. The vendor shall present its dispute to the CDRB in the form of a Petition, which shall include (i) a brief statement of the substance of the dispute, the amount of money, if any, claimed, and the reason(s) the vendor contends that the dispute was wrongly decided by the Agency Head; (ii) a copy of the decision of the Agency Head; (iii) copies of all materials submitted by the vendor to the agency; (iv) a copy of the decision of the Comptroller, if any, and (v) copies of all correspondence with, and material submitted by the vendor to, the Comptroller's Office. The vendor shall concurrently submit four complete sets of the Petition: one to the Corporation Counsel (Attn: Commercial and Real Estate Litigation Division), and three to the CDRB at OATH's offices, with proof of service on the Corporation Counsel. In addition, the vendor shall submit a copy of the statement of the substance of the dispute, cited in (i) above, to both the Agency Head and the Comptroller.
- (b) Agency Response. Within thirty (30) days of receipt of the Petition by the Corporation Counsel, the agency shall respond to the statement of the vendor and make available to the CDRB all material it submitted to the Agency Head and Comptroller. Three complete copies of the agency response shall be submitted to the CDRB at OATH's offices and one to the vendor. Extensions of time for submittal of the agency response shall be given as necessary upon a showing of good cause or, upon the consent of the parties, for an initial period of up to thirty (30) days.
- (c) Further Proceedings. The Board shall permit the vendor to present its case by submission of memoranda, briefs, and oral argument. The Board shall also permit the agency to present its case in response to the vendor by submission of memoranda, briefs, and oral argument. If requested by the Corporation Counsel, the Comptroller shall provide reasonable assistance in the preparation of the agency's case. Neither the vendor nor the agency may support its case with any documentation or other material that was not considered by the Comptroller, unless requested by the CDRB. The CDRB, in its discretion, may seek such technical or other expert advice as it shall deem appropriate and may seek, on its own or upon application of a party, any such additional material from any party as it deems fit. The CDRB, in its discretion, may combine more than one dispute between the parties for concurrent resolution.
- (d) CDRB Determination. Within forty-five (45) days of the conclusion of all submissions and oral arguments, the CDRB shall render a decision resolving the dispute. In an unusually complex case, the CDRB may render its decision in a longer period of time, not to exceed ninety (90) days, and shall so advise the parties at the commencement of this period. The CDRB's decision must be consistent with the terms of the contract. Decisions of the CDRB shall only resolve matters before the CDRB and shall not have precedential effect with respect to matters not before the CDRB.
- (e) Notification of CDRB Decision. The CDRB shall send a copy of its decision to the vendor, the ACCO, the Corporation Counsel, the Comptroller, the CCPO, the Office of Construction, the PPB, and, in the case of construction or construction-related services, the Engineer, Resident Engineer, Engineering Audit Officer, or other designee of the Commissioner. A decision in favor of the vendor shall be subject to the prompt payment provisions of the PPB Rules. The Required Payment Date shall be thirty (30) days after the date the parties are formally notified of the CDRB's decision.
- (f) Finality of CDRB Decision. The CDRB's decision shall be final and binding on all parties. Any party may seek review of the CDRB's decision solely in the form of a

challenge, filed within four months of the date of the CDRB's decision, in a court of competent jurisdiction of the State of New York, County of New York pursuant to Article 78 of the Civil Practice Law and Rules. Such review by the court shall be limited to the question of whether or not the CDRB's decision was made in violation of lawful procedure, was affected by an error of law, or was arbitrary and capricious or an abuse of discretion. No evidence or information shall be introduced or relied upon in such proceeding that was not presented to the CDRB in accordance with Section 4-09 of the PPB Rules.

8. Any termination, cancellation, or alleged breach of the contract prior to or during the pendency of any proceedings pursuant to this section shall not affect or impair the ability of the Agency Head or CDRB to make a binding and final decision pursuant to this section.

If the terms of this Agreement are satisfactory, please indicate Contractor's acceptance by having Contractor's authorized representative sign in the space provided below, and return the letter to my attention. By signing this Agreement, Contractor also agrees that the provisions of Rider 1 and MacBride Principles Provisions, both of which are annexed hereto and made a part hereof, constitute material conditions of this contract. In the event of any conflict between the body of this agreement and any appendix or other attachment, the body of this agreement shall govern. Please note that this agreement includes an Affirmation within Rider 1 which must be filled out, signed and returned to this office, and an Acknowledgment, which must be notarized and returned as well. A fully executed copy of this agreement will be sent to you.

## RIDER 1

### ARTICLE 1. CONFLICTS

#### A. Procurement of Agreement

Contractor represents and warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage fee, contingent fee or any other compensation. The Contractor further represents and warrants that no payment, gift or thing of value has been made, given or promised to obtain this or any other agreement between the parties. The Contractor makes such representations and warranties to induce the City to enter into this Agreement and the City relies upon such representations and warranties in the execution of this Agreement.

#### B. Conflict of Interest

Contractor represents and warrants that neither it nor any of its directors, officers, members, partners or employees, has any interest nor shall they acquire any interest, directly or indirectly, which would or may conflict in any manner or degree with the performance or rendering of the services herein provided. The Contractor further represents and warrants that in the performance of this Agreement no person having such interest or possible interest shall be employed by it. No elected official or other officer or employee of the City or Department, nor any person whose salary is payable, in whole or in part, from the City Treasury, shall participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership or association in which he or she is, directly or indirectly, interested; nor shall any such person have any interest, direct or indirect, in this Agreement or in the proceeds thereof.

### ARTICLE 2. MISCELLANEOUS

#### A. Assignment/Subcontractors

This Agreement shall neither be assigned nor subcontracted by the Contractor in whole or in part without the prior express written consent of the Department.

#### B. Non-Discrimination

The Contractor agrees not to engage in any unlawful discriminatory practice as defined and pursuant to the terms of Title VII of the New York City Administrative Code.

#### C. Compliance With Law

The Contractor shall render all services under this Agreement in accordance with the applicable provisions of Federal, State and local laws, rules and regulations as are in effect at the time such services are rendered.

#### D. Retention of Records

Contractor shall maintain for six years, after the final payment or termination of this Agreement, whichever is later, copies of all financial and work reports, evaluation surveys and audits which reflect the services rendered hereunder and fiscal accountability of all monies appropriated and spent thereby, make copies thereof available and submit such copies to the Department upon request.

#### E. Conflict of Laws/Forum

All disputes arising out of this Agreement shall be interpreted and decided in accordance with the laws of the State of New York. Contractor agrees that any and all claims asserted by or against the City arising under this Agreement shall be heard or determined either in the Federal or State courts located in the City and County of New York.

F. Merger

This written Agreement contains all the terms and conditions agreed upon by the parties hereto, and no other agreement, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto, or to vary any of the terms contained herein.

**ARTICLE 3. INVESTIGATIONS CLAUSE**

A. The parties to this agreement agree to cooperate fully and faithfully with any investigation, audit or inquiry conducted by a State of New York (State) or City of New York (City) governmental agency or authority that is empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath, or conducted by the Inspector General of a governmental agency that is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license that is the subject of the investigation, audit or inquiry.

B. (1) If any person who has been advised that his or her statement, and any information from such statement, will not be used against him or her in any subsequent criminal proceeding refuses to testify before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of or performance under any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision or public authority thereof, or the Port Authority of New York and New Jersey, or any local development corporation within the City, or any public benefit corporation organized under the laws of the State of New York, or;

(2) If any person refuses to testify for a reason other than the assertion of his or her privilege against self-incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest in, and is seeking testimony concerning the award of, or performance under, any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision thereof or any local development corporation within the City, then;

C. (1) The commissioner or agency head whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license shall convene a hearing, upon not less than five (5) days written notice to the parties involved, to determine if any penalties should attach for the failure of a person to testify.

(2) If any non-governmental party to the hearing requests an adjournment, the commissioner or agency head who convened the hearing may, upon granting the adjournment, suspend any contract, lease, permit, or license pending the final determination pursuant to paragraph E below without the City incurring any penalty or damages for delay or otherwise.

D. The penalties which may attach after a final determination by the commissioner or agency head may include but shall not exceed:

(1) The disqualification for a period not to exceed five (5) years from the date of an adverse determination for any person, or any entity of which such person was a member at the time the testimony was sought, from submitting bids for, or transacting business with, or entering into or obtaining any contract, lease, permit or license with or from the City; and/or

(2) The cancellation or termination of any and all such existing City contracts, leases, permits or licenses that the refusal to testify concerns and that have not been assigned as permitted under this agreement, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City incurring any penalty or damages on account of such cancellation or termination; monies lawfully due for goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination shall be paid by the City.

E. The commissioner or agency head shall consider and address in reaching his or her determination and in assessing an appropriate penalty the factors in paragraphs (1) and (2) below. He or she may also consider, if relevant and appropriate, the criteria established in paragraphs (3) and (4) below in addition to any other information which may be relevant and appropriate:

(1) The party's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including but not limited to the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees or fiduciaries whose testimony is sought.

(2) The relationship of the person who refused to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.

(3) The nexus of the testimony sought to the subject entity and its contracts, leases, permits or licenses with the City.

(4) The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under D above, provided that the party or entity has given actual notice to the commissioner or agency head upon the acquisition of the interest, or at the hearing called for in C(1) above gives notice and proves that such interest was previously acquired. Under either circumstance the party or entity must present evidence at the hearing demonstrating the potential adverse impact a penalty will have on such person or entity.

F. (1) The term "license" or "permit" as used herein shall be defined as a license, permit, franchise or concession not granted as a matter of right.

(2) The term "person" as used herein shall be defined as any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.

(3) The term "entity" as used herein shall be defined as any firm, partnership, corporation, association, or person that receives monies, benefits, licenses, leases, or permits from or through the City or otherwise transacts business with the City.

(4) The term "member" as used herein shall be defined as any person associated with another person or entity as a partner, director, officer, principal or employee.

G. In addition to and notwithstanding any other provision of this agreement the Commissioner or agency head may in his or her sole discretion terminate this agreement upon not less than three (3) days written notice in the event contractor fails to promptly report in writing to the Commissioner of Investigation of the City of New York any solicitation of money, goods, requests for future employment or other benefit or thing of value, by or on behalf of any employee of the City or other person, firm, corporation or entity for any purpose which may be related to the procurement or obtaining of this agreement by the contractor, or affecting the performance of this contract.

#### **ARTICLE 4. FOR CONTRACTS OVER \$100,000: EQUAL EMPLOYMENT OPPORTUNITY: NEW YORK CITY ADMINISTRATIVE CODE §6-123; EXECUTIVE ORDER 50**

A. This Agreement is subject to the requirements of New York City Administrative Code §6-123 and Executive Order No. 50 (1980) as revised ("E.O. 50") and the Rules and Regulations promulgated thereunder. No Contract will be awarded unless and until these requirements have been complied with in their entirety. By signing this Contract, the Contractor agrees that it:

(1) will not engage in any unlawful discrimination against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, marital status, or sexual orientation with respect to all employment decisions including, but not limited to recruitment, hiring, upgrading, demotion, downgrading, transfer, training, rates of pay or other forms of compensation, layoff, termination, and all other terms and conditions of employment;

(2) the Contractor agrees that when it subcontracts it will not engage in any unlawful discrimination in the selection of subcontractors on the basis of the owner's race, color, creed, national origin, sex, age, disability, marital status or sexual orientation or that it is an equal opportunity employer;

(3) will state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, sex, age, disability, marital status or sexual orientation; or that it is an equal employment opportunity employer;

(4) will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or memorandum of understanding, written notification of its equal employment opportunity commitments under E.O. 50 and the rules and regulations promulgated thereunder; and

(5) will furnish all information and reports including an Employment Report before the award of the Contract which are required by E.O. 50, the rules and regulations promulgated thereunder, and orders of the Director of the Bureau of Labor Services ("Bureau"), and will permit access to its books, records and accounts by the Bureau for the purposes of investigation to ascertain compliance with such rules, regulations, and orders.

Nothing contained in this section shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, from limiting employment or giving preference to persons of the same religion or denomination or from making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained.

B. The Contractor understands that in the event of its noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations or orders, such noncompliance shall constitute a material breach of this Agreement and noncompliance with E.O. 50 and the rules and regulations promulgated thereunder. After a hearing held pursuant to the rules of the Bureau, the Director may direct the imposition by the contracting agency head of any or all of the following sanctions:

- (1) disapproval of the Contractor;
- (2) suspension or termination of the Agreement;
- (3) declaring the Contractor in default; or

(4) in lieu of any of the foregoing sanctions, the Director may impose an employment program.

C. The Director of the Bureau may recommend to the contracting agency head that a Board of Responsibility be convened for purposes of declaring a contractor who has repeatedly failed to comply with E.O. 50 and the rules and regulations promulgated thereunder to be nonresponsible.

D. The Contractor agrees to include the provisions of the foregoing paragraphs in every subcontract or purchase order in excess of \$50,000 to which it becomes a party, unless exempted by E.O. 50 and the rules and regulations promulgated thereunder, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Director of the Bureau of Labor Services as a means of enforcing such provisions including sanctions for noncompliance.

E. The Contractor further agrees that it will refrain from entering into any contract or contract modification subject to E.O. 50 and the rules and regulations promulgated thereunder with a subcontractor who is not in compliance with the requirements of E.O. 50 and the rules and regulations promulgated thereunder.

**ARTICLE 5. PARTICIPATION IN AN INTERNATIONAL BOYCOTT: NEW YORK CITY ADMINISTRATIVE CODE §6-114**

A. The Contractor agrees that neither the Contractor nor any substantially-owned affiliated company is participating or shall participate in an international boycott in violation of the provisions of the Export Administration Act of 1979, as amended, or the regulations of the United States Department of Commerce promulgated thereunder.

B. Upon the final determination by the Commerce Department or any other agency of the United States as to, or conviction of the Contractor or a substantially-owned affiliated company thereof, participation in an international boycott in violation of the provisions of the Export Administration Act of 1979, as amended, or the regulations promulgated thereunder, the Comptroller may, at his option, render forfeit and void this contract.

C. The Contractor shall comply in all respects, with the provisions of Section 6-114 of the Administrative Code of the City of New York and the rules and regulations issued by the Comptroller thereunder.

**Attachment to Contract**

**AFFIRMATION**

The undersigned contractor affirms and declares that said contractor is not in arrears to the City of New York upon debt, contract or taxes and is not a defaulter, as surety or otherwise, upon obligation to the City of New York, and has not been declared not responsible, or disqualified, by any agency of the City of New York, nor is there any proceeding pending relating to the responsibility or qualification of the contractor to receive public contracts except:

\_\_\_\_\_

Full name of Contractor: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

CHECK ONE BOX AND INCLUDE APPROPRIATE NUMBER:

A Individual or Sole Proprietorship\*  
SOCIAL SECURITY NUMBER

\_\_\_\_\_

B: Partnership, Joint Venture or other unincorporated organization  
EMPLOYER IDENTIFICATION NUMBER

\_\_\_\_\_

C: Corporation  
EMPLOYER IDENTIFICATION NUMBER

\_\_\_\_\_

By \_\_\_\_\_  
Signature

Title: \_\_\_\_\_

Must be signed by an officer or duly authorized representative.

Under the Federal Privacy Act, the furnishing of Social Security Numbers by bidders on City contracts is voluntary. Failure to provide a Social Security Number will not result in bidder's disqualification. Social Security Numbers will be used to identify bidders, proposers or vendors to ensure their compliance with laws, to assist the City in enforcement of laws and as to provide the City a means of identifying businesses which seek City contracts.