



**NEW YORK CITY HOUSING AUTHORITY**

**REQUEST FOR PROPOSALS**

**FOR  
INFORMATION TECHNOLOGY SUPPORT FIELD SERVICES  
AND ON-DEMAND INFORMATION TECHNOLOGY SERVICES**

**RFP # 427999**

<b>Event</b>	<b>Date</b>	<b>Time</b>
<b>Public Advertisement Begins</b>	May 22, 2023	
<b>Proposers' Conference</b>	June 2, 2023	11:00 A.M.
<b>RFP Question Deadline</b>	June 7, 2023	2:00 P.M.
<b>Question and Answer Release Date</b>	June 14, 2023	
<b>MWBE Waiver Submission Deadline</b>	June 15, 2023	
<b>Proposal Submission Deadline</b>	June 22, 2023	2:00 P.M.
<b>Anticipated Agreement Award Date</b>	September 2023	

**NEW YORK CITY HOUSING AUTHORITY'S COORDINATOR**

The New York City Housing Authority's coordinator ("NYCHA's Coordinator") for ALL matters concerning this Request for Proposals ("RFP") is:

Franklin Cortez  
New York City Housing Authority  
Procurement Department  
90 Church Street, 6<sup>th</sup> Floor  
New York, New York 10007  
Telephone No.: (212) 306-4505  
E-mail: Franklin.Cortez@nycha.nyc.gov

References in this RFP to NYCHA's Coordinator shall include his/her designee.

This RFP is available online through NYCHA's Oracle iSupplier system ("iSupplier"). Instructions for registering for iSupplier can be found at <http://www1.nyc.gov/site/nycha/business/vendors.page>.

NYCHA is not responsible for errors, omissions, or any other changes to the RFP that occur during download of the RFP from iSupplier.

**TABLE OF CONTENTS**

**SECTION I**      **OVERVIEW**..... 1  
1. **Introduction** ..... 1  
2. **Overview of Services**..... 1  
3. **RFP Timetable**..... 1

**SECTION II**      **SCOPE OF SERVICES**..... 2

**SECTION III**      **PAYMENT FOR SERVICES**..... 8

**SECTION IV**      **RFP PROCEDURES AND SELECTED CONTRACTUAL**  
**REQUIREMENTS**..... 11  
1. **General Information**..... 11  
2. **Proposal Submission Requirements**..... 16  
3. **Proposal Content Requirements**..... 16

**SECTION V**      **CRITERIA FOR NYCHA EVALUATION OF**  
**PROPOSALS**..... 19  
1. **Minimum Qualifications Requirements**..... 19  
2. **Exceptions to this RFP** ..... 20  
3. **Evaluation Criteria**..... 20  
4. **Award of Agreements**..... 21

**Attachments and Exhibits**

**Attachments**

**Attachment A**              Cost Proposal  
**Attachment B**              Bid/Proposal Face Sheet  
**Attachment C**              Doing Business Data Form  
**Attachment D**              Non-Collusive Bidding Certification  
**Attachment E**              Acknowledgment of Addenda  
**Attachment F**              Section 3 Resident Economic Opportunity Plan  
**Attachment G**              Other Economic Opportunities (OEO) Plan  
**Attachment H**              NYCHA M/WBE Utilization Plan  
**Attachment H-1**              NYCHA Application for Waiver of M/WBE Utilization Goal  
**Attachment I**              Certification of Payments to Influence Federal Transactions  
**Attachment J**              Certification Regarding Debarment and Suspension  
**Attachment K**              Bidder/Proposer Debarment Certification Form  
**Attachment L**              Subcontractor Debarment Certification Form

**Exhibits**

**Exhibit 1**                      NYCHA General Terms and Conditions  
**Exhibit 2**                      Sample Agreement  
**Exhibit 3**                      Contracting With Minority and Women-Owned Business Enterprises  
**Exhibit 4**                      Anti-Corruption Notice  
**Exhibit 5**                      Paid Sick Leave Contract Rider  
**Exhibit 6**                      NYCHA Health and Safety Requirements

**The above-referenced exhibits and attachments are annexed to this RFP and are incorporated herein.**

## SECTION I

### OVERVIEW

#### 1. Introduction

The New York City Housing Authority (“**NYCHA**”) is the largest public housing authority in North America. NYCHA’s mission is to increase opportunities for low- and moderate-income New Yorkers by providing safe, affordable housing and facilitating access to social and community services. NYCHA serves 339,900 authorized residents in 162,143 apartments within 277 housing developments through the conventional Section 9 public housing program. NYCHA also serves 29,789 authorized residents in 15,426 units within 58 developments that have been converted under the PACT/RAD programs. Through federal rent subsidies (Section 8 Leased Housing Program), NYCHA also assists approximately 201,938 authorized residents (92,595 families) in locating and renting units.

#### 2. Overview of Services

NYCHA, by issuing this RFP, seeks proposals (“**Proposals**”) from qualified information technology firms (the “**Proposers**”) to provide NYCHA with information technology services consisting of field service support to end users of NYCHA’s information technology infrastructure including, but not limited to, hardware consisting of desktops, time clocks, smart screens and peripherals, printers, software, local and wide area network communications, telephony, smartphones and tablets within the five boroughs of New York City, and (1) on-demand, project based, information technology services and (2) Technical staff augmentation/surge support and other IT related services. Services are more fully described within **Section II** of this RFP (collectively, the “**Services**”).

NYCHA intends to enter into one (1) agreement (the “**Agreement**”) with the selected Proposer (the “**Selected Proposer**” or the “**Consultant**”) to provide the Services.

The initial term of the Agreement shall be a three (3) year (the “**Initial Term**”). Immediately following the expiration of the Initial Term, (a) NYCHA at its discretion may renew the Agreement for two (2) consecutive one-year renewal periods (each a “**Renewal Period**”) by providing written notice to the Consultant prior to the expiration of the Initial Term or, if applicable, the Renewal Period then in effect, of its intent to renew the Agreement, and (b) the Agreement shall automatically terminate at the expiration of the Initial Term or final Renewal Period, as applicable, if not terminated earlier pursuant to the preceding subsection (a) or pursuant to any early termination rights (breach, convenience or otherwise) set forth in the Agreement. The Initial Term, together with the Renewal Periods, is referred to herein as the “**Term**.”

#### 3. RFP Timetable

- a. The release date of this RFP is **May 22, 2023** (the “**Release Date**”).
- b. A non-mandatory Proposers’ conference (“**Proposers’ Conference**”) will be hosted online via Microsoft Teams on **June 2, 2023**, at **11:00 A.M.** Proposer’s Conference Meeting

Information: **646-838-1534**, Conference ID: **401931945#**. Although attendance is not mandatory at the Proposers' Conference, it is strongly recommended that all interested Proposers attend. Proposers who wish to attend must RSVP by e-mail to NYCHA's Coordinator by no later than **4:00 P.M. on June 1, 2023**. NYCHA additionally recommends that Proposers e-mail questions in advance of the Proposers' Conference to NYCHA's Coordinator by no later than **12:00 P.M. on June 1, 2023**. NYCHA will upload all questions and answers to iSupplier on **June 14, 2023**.

- c. If Proposer seeks a full or partial waiver from complying with the M/WBE Program's utilization requirements set forth in **Section IV(1)(o)** then Proposer shall email the RFP Coordinator the NYCHA Application for Waiver of M/WBE Utilization Goal (**Attachment H-1**) by **June 15, 2023** (the "M/WBE Waiver **Submission Deadline**"). See **Section IV(1)(o)** for details.
- d. Proposals must be successfully submitted into iSupplier in final form no later than **2 p.m. on June 22, 2023** (the "**Proposal Submission Deadline**"). Proposals which are saved in iSupplier as a "draft" but not successfully submitted will not be considered. Proposers should refer to **Section IV(2)** of this RFP for details on Proposal submission requirements.
- e. The anticipated award date of the Agreement(s) to the Selected Proposer(s) is on or about **September 2023**.
- f. All times stated above are Eastern Standard Time (EST).

## **SECTION II**

### **SCOPE OF SERVICES**

The Consultant(s) shall perform the following Services pursuant to the Agreement:

#### **1. Services**

- a. The Consultant performing Services shall maintain a highly skilled and diverse technical staff to provide (a) field service support to end users of NYCHA's information technology infrastructure within the five boroughs of New York City ("**Field Support Services**"), and (b) on-demand, project based, information technology services ("**On Demand Services**") for NYCHA, in accordance with the terms and conditions of the Agreement. The highly skilled and diverse technical staff will be located at the Consultant's own offices within the five boroughs of New York City and shall provide a number for NYCHA's managers to contact. NYCHA will route Service Tickets to the Consultant for Field Support Services utilizing Service Now. The Consultant shall also provide a manager or representative, as appropriate and as required by the terms of the Agreement, for the authorized NYCHA manager to contact directly for purposes of initiating On-Demand Services.
- b. NYCHA will complete a desktop refresh of all NYCHA desktops consisting of up to 7000

desktops. The desktops will have a warranty associated with them. (the “**Warranty**”) in approximately 250 NYCHA locations throughout the five boroughs of New York City. If NYCHA closes a location relocating Desktops or opens a new location installing Desktops, the Consultant performing the Services shall be notified. **Therefore, any of the Consultant’s technicians performing Warranty Services (as defined below) must earn a certificate allowing them to perform warranty services for equipment. Manufacturer as of the issuance of this RFP has yet to be determined.**

- c. NYCHA may require onsite repairs or support that are covered under manufacturer warranty (a “**Warranty Service**”). As part of the services NYCHA shall authorize the Consultant to contact the manufacturer to obtain authorization to perform the Warranty Service on NYCHA’s behalf. It shall be manufacturers option to have its own service provider perform the Warranty Service or to assign the Warranty Service to the Consultant. Any Services that the Consultant performs that are Manufacturer Warranty Services 1) **shall not be billed or charged to NYCHA** and the Consultant shall seek payment solely from Manufacturer; and 2) shall be performed by Consultant personnel sufficiently versed in the Warranty to be able to perform such Warranty Services in accordance with the requirements of the Warranty, as well as the Agreement, and shall perform such Services in a manner that maintains the Warranty’s validity. In the event the Consultant’s performance of a Warranty Service invalidates the Warranty, NYCHA will consider this a breach of the Agreement and reserves all of its remedies with respect to such breach. If the Desktops or other equipment requires Services not covered by the Warranty, the Services and cost (which shall be at the applicable prices set forth in the Agreement) shall be authorized in writing by NYCHA’s services manager prior to the Consultant performing the Services.
  
- d. To enable the Consultant to fully perform the Services, NYCHA will require that the Consultant maintain at least one warehouse with sufficient space, as determined by NYCHA, for NYCHA equipment, located within one of the five boroughs of New York City. In the event of a substantial installation project, the Consultant will have to be prepared to receive and store shipments of new NYCHA equipment delivered directly to the Consultant’s warehouse. The Consultant will also be required to make the warehouse available to all personnel authorized by NYCHA, at any time during regular business hours, so that such personnel can retrieve goods as needed, perform inventory checks and other related duties. If the Consultant leases such warehouse or has a mortgage on such warehouse, then upon request NYCHA may require Consultant to disclose if the landlord or mortgagor of any warehouse used by Consultant to store NYCHA-owned equipment has any collateral or security interest in the goods stored in such warehouse and, if so, may require the Consultant to produce a valid subordination executed by any such landlord or mortgagor that the landlord’s or mortgagor’s collateral or security interest does not extend to the NYCHA-owned goods.

**2. Field Support Services**

- (1) The Field Support Services shall consist of the Consultant performing on-site

information technology service calls (“**Service Calls**”), on an as needed basis, to support end-users of NYCHA’s computing and information technology environment located at approximately 200+ NYCHA facilities within the five boroughs of New York City. Service Calls may be placed by NYCHA to resolve Service Tickets that could not be resolved by the Service Desk or Level 2/3 as otherwise required by NYCHA.

- (2) **The Consultant shall maintain an appropriate level of staff to handle the volume of Service Calls Monday through Friday, from 8:30 am – 4:30 pm (the “Service Call Period”).** The Consultant’s technicians responding to Service Calls must be experienced and skilled technicians with good communications skills who will contact the end-user within two hours upon the Consultant’s notification that NYCHA has a need for a Service Call. If necessary, the Consultant’s personnel shall be onsite within the next business day of contact with the end-user.
- (3) The Consultant shall tie into to NYCHA’s Service Now ticketing system. The consultant will receive a service ticket for each Service Call (a “**Field Ticket**”). On the Field Ticket, the Consultant’s technicians performing the Service Calls shall clearly detail the service and/or support required and the resolution of the Service Call before closing it. The consultant shall indicate on the ticket if this is a billable service call.

### **3. Field Support Service Activities and Tasks**

The Consultant shall perform, at minimum, the following Field Service-related activities and/or tasks pursuant to the Agreement. If the Consultant is performing repair or replacement of hardware under an existing warranty, the manufacturer or provider may provide the materials, parts, and/or replacement equipment. **Otherwise, NYCHA shall provide all materials, parts, and/or replacement equipment for all other non-warranted equipment. Under no circumstances shall the Consultant provide or charge NYCHA for materials, parts, and/or replacement equipment.**

Below are examples of services performed. This RFP is intended to be an all-inclusive IT support contract as needed.

- (1) Service Calls may consist of the Consultant performing the following activities and tasks.
  - Providing hardware support for all NYCHA computers, peripherals, and printers within the five boroughs of New York City.
  - Support and repair of smart screens located in each of our NYCHA developments. These are 55-inch commercial grade monitors with a micro factor Dell desktop attached. Typical tasks would be re-imaging or installing the camera and/or speaker



bar.

- Repairing computers and/or attached peripheral equipment.
- Re-imaging, naming, and domain computers.
- Replacing and installing dual monitor desktop set-up, with monitors provided by NYCHA.
- Support of NYCHA Kronos Time Clock. Typical tasks include Installing, configuring, removing and replacement as needed in all locations a time clock is currently installed and installing in new locations as needed.
- Replacing and installing new equipment, including moves, adds and changes, with equipment provided by NYCHA.
- Repairing, replacing, delivery and installation of networked MFD and standalone printers, with equipment provided by NYCHA.
- Diagnosing LAN errors or technical problems and determine solutions.
- Diagnosing, repairing, replacing and testing all LAN related hardware and servers.
- Replacing and installing new LAN equipment, including moves, adds and changes, with equipment provided by NYCHA.
- Repairing, maintaining and testing Cisco manufactured router and switch product and other manufacturers' products used by NYCHA as required.
- Diagnosing, resolving or replacing any Cisco manufactured router and switch hardware, and other manufacturers' equipment used by NYCHA as required, with equipment provided by NYCHA.
- Diagnosing errors or technical problems and determining solutions for Cisco manufactured router and switch hardware and other manufacturers' equipment used by NYCHA.
- Decommissioning and/or consolidating IT infrastructure equipment related to the above tasks.

#### **4. On Demand Services**

On Demand Services are for special requirements, projects, staff relocations, "state-of-good-repair" infrastructure MAC and upgrades that will require a change to NYCHA's information technology computing and infrastructure environment. The Consultant

performing On Demand Services shall provide appropriately experienced and skilled levels of technicians to perform On Demand Services request.

- (1) On Demand Services may include, but shall not be limited to, the following tasks and activities.
  - (a) Providing staff support for the relocation of NYCHA computers, peripherals and printers, from one location to another within the five boroughs of NYC. This includes de-installing and re-installing all relocated equipment, and ensuring all re-installed equipment is fully operational. Transporting the equipment may or may not be required by NYCHA.
  - (b) Providing staff support for new installations of computers, peripherals and printers at any NYCHA location within the five boroughs of NYC, and ensuring all installed equipment is fully operational. This may or may not require transporting the new equipment from a storage site as instructed by NYCHA, or the equipment may already be delivered to the installation location.
  - (c) Providing on-site staff support for NYCHA declared emergencies or critical operations processes when requested by NYCHA's authorized representative. The staff support requested can be for a full 24-hour day and for multiple days and will require technical support if desktop and laptop computers, peripherals, printers, and smartphones, at any NYCHA location within the five boroughs of NYC, and ensuring all equipment continues to be fully operational. This may or may not require transporting equipment from a storage site or from location to location and installed, as instructed by NYCHA's authorized representative.
  - (d) Closing of a NYCHA site. If a NYCHA development office is closing, Vendor will uninstall and remove all IT equipment and move to a location specified by NYCHA.
- (2) The Consultant shall, at all times when performing On-Demand Services described in subparts (a), (b), and (c) immediately above or otherwise, coordinate the On-Demand Services with NYCHA's Services manager or other authorized representative. The Consultant shall appoint an On Demand Services representative for purposes of such coordination.
- (3) The Consultant shall propose an On Demand Service request template form (the "**Service Request Form**"), which shall be subject to NYCHA's review and final approval. The final, NYCHA approved, Service Request Form, shall be used by NYCHA's Service managers to request On Demand Services. The Service Request Form must, at a minimum, include easily fillable sections for NYCHA to include

- (a) a detailed description of the On Demand Services requested, (b) the location(s) where the On Demand Services shall be performed, (c) the date(s) and time(s) for performance of the On Demand Services, and (d) any specific instructions or special requirements. As part of its Proposal, the Proposer must submit a sample of such Service Request Form if the Proposer is proposing to perform Services.
- (4) Upon receipt of a completed Service Request Form, the Consultant shall provide to the NYCHA Service manager a proposed detailed estimated cost for the requested “On Demand” Services for review, negotiation, and approval, which are based on staff titles and rates and which cannot exceed the applicable payment rates set forth in the Cost Proposal and which shall be subject to the payment procedures set forth in **Section III** below.
- (5) Upon agreement as to the cost and scope of the On Demand Service requested, which shall be within the cost of and scope of work described in the Agreement, NYCHA shall issue the Consultant a written authorization to perform the On Demand Services. The written authorization shall include the mutual agreement on the terms of the requested On Demand Services which must include the scope of the On Demand Services (including, but not limited to, the quantity and type of equipment, whether the On Demand Services entail new installation or relocation of equipment, the need/no need for transporting equipment, the work location, and any special or unique requirements), the technicians’ experience and skills required, the number of hours to complete the On Demand Service, the schedule (dates, times), any deliveries or milestones, and the payment (which shall be in accordance with the terms of the Agreement). The written authorization must be signed by authorized representatives of both authorized representatives of NYCHA and the Consultant before the Consultant proceeds with any On Demand Services. The request and performance of any and all such On Demand Services will be subject to the terms and conditions of the Agreement.

**5. Augmentation/Surge Staffing**

Augmentation/Surge staffing is required to providing NYCHA with demand driven contracted staffing to support NYCHA IT day to day operation across multiple IT disciplines as needed

- (a) We anticipate needing support from time to time to either augment our internal capabilities or accelerate existing projects.
- (b) Vendor must be capable of providing experienced and qualified temporary personnel to perform specified activities
- (c) Vendor personnel assigned will be supervised by NYCHA personnel with regard to day to day activities
- (d) If requested vendor personnel must be available for full-time commitment to NYCHA
- (e) Unless otherwise specified, vendor personnel will maintain a daily and weekly

work schedule consistent with NYCHA normal business hours and work practices. Vendor personnel are expected to comply with all NYCHA's rules pertaining to conduct in the workplace.

- (f) All vendor personnel assigned shall meet position-specific qualifications, have good technical ability, interpersonal skills and communications skills and conduct themselves in a professional manner.

### **SECTION III**

#### **PAYMENT FOR SERVICES**

1. NYCHA shall compensate Consultant for Services performed in accordance with the terms and conditions of the Agreement, which shall include the cost proposal (**Attachment A**), as submitted with the Consultant's Proposal and which may be amended by the parties prior to award of the Agreement (the "**Cost Proposal**"). The Cost Proposal must include the cost of all Services to be performed during the Initial Term, as well as the cost of all Services to be performed during the Renewal Period(s), if any. Unless specified otherwise herein, the Consultant will not receive any additional payments from NYCHA for any increase to the Consultant's costs during the course of performing the Services under the Agreement.
2. As a condition for payment, the Consultant must email monthly invoices and supporting documentation, as attachments, to [invoice@nycha.nyc.gov](mailto:invoice@nycha.nyc.gov) in PDF, JPEG, Excel, Word, TIF or BMP file format. The subject line of the email must state the Consultant name and Purchase Order ("**PO**") number. Invoices and supporting documentation must be on Consultant letterhead and include the date of the invoice, an invoice number, and the PO number. Invoices must also include: a detailed description of the invoiced Services; Service location(s); quantities; date(s) Services were performed; the release number (when applicable); and the amount due and gross amount (when applicable). NYCHA will not compensate Consultant for sums included in invoices that are not properly itemized, or that contain quantities and/or prices which are inconsistent with the Agreement and/or the PO. Consultant shall provide NYCHA with any additional information and documentation reasonably requested by NYCHA in order to process the invoice and issue payment.

#### Services

- (1) Proposers proposing to perform Services must provide a flat fee payable by NYCHA per Field Ticket for each year of the Term. Such flat fee may be either (a) an all-inclusive flat fee which shall include the costs of all Service Calls and Field Support Services including, but not limited to, tolls, transportation, gas, and mileage, or (b) not inclusive of reimbursable expenses, in which case, the Proposer must provide, as part of its Cost Proposal, a line item description of all reimbursable expenses (e.g., tolls, transportation, gas, and mileage) and the fixed rates that will be charged to NYCHA for all such expenses for each year of the Term.
- (2) In its Proposal, the Proposer must provide a detailed description as to how it

determined the flat fee per Field Ticket which must include a description of all charges, expenses, and other costs included therein, and any such charges, expenses and other costs excluded which, if the Proposer seeks payment therefor, must be included in the list of reimbursable expenses.

- (3) For On Demand Services, Staff Augmentation & surge the Proposer must include the staff titles and fixed hourly rates that shall be charged to NYCHA for On Demand Services for each year of the Term. Such fixed hourly rates may be either (a) all-inclusive fixed hourly rates which shall include the costs of all On Demand Services including, but not limited to, tolls, transportation, gas, packaging materials and supplies, and mileage, or (b) not inclusive of reimbursable expenses, in which case, the Proposer must provide, as part of its Cost Proposal, a line item description of all reimbursable expenses (e.g., tolls, transportation, gas, packaging materials, and mileage) and the fixed rates that will be charged to NYCHA for all such expenses for each year of the Term.
- (4) In its Proposal, the Proposer must provide a detailed description as to how it determined the fixed hourly rates for On Demand Services which must include a description of all charges, expenses, and other costs included therein, and any such charges, expenses and other costs excluded which, if the Proposer seeks payment therefor, must be included in the list of reimbursable expenses.
- (5) NYCHA may pay the Consultant for On Demand Services either (a) on an hourly basis, at the fixed hourly rates set forth in the Agreement, subject to a not-to-exceed amount set forth in the authorization (which shall be based on the number of hours that the Consultant anticipates that it will require to perform the On Demand Services plus reimbursable expenses to the extent not included in the fixed hourly rates, subject to NYCHA's approval), or (b) at an agreed to lump sum, which shall be the authorization's not-to-exceed amount, based on the fixed hourly rates, anticipated number of hours, and reimbursable expenses, to the extend not included in the fixed hourly rats, as agreed to by NYCHA.

3. In no event shall NYCHA be liable for the payment of any sums in excess of those contained in the Cost Proposal (**Attachment A**) or reimbursement for any expenses that it may incur in connection with the performance of the Services under the Agreement that are not factored in to the prices for services listed in the Cost Proposal (**Attachment A**), including, but not limited to, any expenses for travel, meals, lodging or supportive services.

4. Service Cost Examples

To assist NYCHA in its evaluation of the Proposals, the Cost Proposal further requires the following examples.

Services

Proposers must provide the following examples.

- (1) The cost of the Field Services, based on the Proposer's flat fee per Field Ticket plus reimbursable expenses if such expenses are not included in the flat fee, assuming 70 Field Tickets per month (that are not manufacturer Warranty Services).
- (2) The cost of On Demand Services, based on the Proposer's fixed hourly rates plus reimbursable expenses if such expenses are not included in the fixed hourly rates, assuming two authorizations per month to perform the following example of On Demand Services.

**Example**

NYCHA requests On Demand Services to relocate 20 desktop configurations plus 5 networked multifunction printers from 1 Fordham Plaza in the Bronx to 787 Atlantic Avenue in Brooklyn. The Consultant is required to begin work at 4:00 pm on a weekday. The On Demand Services require the Consultant to disconnect and/or unplug 20 desktops or monitors, with 10 of desktops having an attached scanning device, and 5 floor-standing networked multifunction printers. The Consultant will securely pack all desktops, monitors, peripherals, and printers for relocation, transport the equipment to a new location, and then reinstall and re-setup all equipment in predefined work areas.

Proposers are advised that such quantities for the illustrative cost examples above are **estimates only** and the Consultant shall perform all Services required by NYCHA which may be either greater or less than such estimates. Therefore, if a Proposer is awarded an Agreement, such Agreement shall not be a lump-sum contract. Rather, the Consultant shall only be paid for Services performed by the Consultant in accordance with the terms of the Agreement. Therefore, any NYCHA estimated quantities included in this RFP and in the Cost, Proposal do not represent guaranteed lump sum payments, nor do they represent any NYCHA purchase commitments, or guarantees.

5. The Consultant must maintain all necessary records and back-up documentation such as payroll records and work assignment logs and records for all invoices. All records and back-up documentation are subject to review and audit by NYCHA and others, as specified in Section 14 of the NYCHA General Terms and Conditions (**Exhibit 1**).
6. **NYCHA has tax-exempt status and accordingly, will not pay any type of tax from which it is exempt in any form, including, without limitation, New York State sales and use tax.** Consultant shall not submit to NYCHA any invoice which directly charges NYCHA a tax to be remitted by Consultant directly to a taxing authority. Furthermore, NYCHA shall not reimburse Consultant for taxes paid by Consultant in connection with the purchase of tangible personal property which becomes an integral component of a NYCHA structure, building, or real property. See NYCHA's Tax Exemption Letter for more tax exemption information that may be applicable to Consultant.

The fixed unit prices in the Cost Proposal are inclusive of all of Consultant's costs, including taxes.

7. NYCHA will not pay any interest, finance charge, late charge or penalty with respect to any

payments under any Agreement it may enter into as a result of this RFP.

## **SECTION IV**

### **RFP PROCEDURES AND SELECTED CONTRACTUAL REQUIREMENTS**

#### **1. General Information**

##### **a. Communications with NYCHA**

- (1) From the Release Date of this RFP until NYCHA awards the Agreement, the only contact the Proposer may initiate with NYCHA regarding this RFP is with NYCHA's Coordinator.
- (2) It is the Proposer's responsibility to ensure that it has a complete and thorough understanding of all requirements regarding what NYCHA expects from the Proposer, as set forth in this RFP, prior to submitting its Proposal. By submitting a Proposal, the Proposer covenants that it will not make any claims for or have any rights to damages because of any misinterpretation or misunderstanding of the Scope of Services, as described in **Section II** of this RFP, or because of any misinformation or lack of information concerning this RFP.

##### **b. Procurement and Sourcing Solutions Portal (PASSPort) Disclosure Filing**

- (1) PASSPort is an on-line disclosure system used by the Mayor's Office of Contract Services that replaces the paper-based VENDEX system. Information regarding PASSPort is accessible at:  
<https://www1.nyc.gov/site/mocs/systems/about-go-to-passport.page>.

**Proposers must create a PASSPort account and file all required disclosures in order for NYCHA to evaluate the Proposal, and NYCHA may rely upon the disclosures to determine the responsibility of the Proposer. Proposers must keep their PASSPort account and disclosures up-to-date for at least 180 calendar days following the Proposal Submission Deadline.**

- (2) Proposers can create a PASSPort profile and/or login to PASSPort at the URL above.

##### **c. Modifications; Negotiations**

- (1) On or before the Proposal Submission Deadline, a Proposer may submit a modified complete Proposal to replace all or any section of a previously submitted Proposal. NYCHA personnel will not insert pages or otherwise modify the Proposer's Proposal. The Proposer has the full responsibility for ensuring that its final

Proposal has been submitted in desired form by the Proposal Submission Deadline. The first page of a modified Proposal must identify it as a modified Proposal and must include the date on which it is submitted.

- (2) NYCHA reserves the right to issue addenda to correct, modify or amend this RFP (including any Scope of Service requirements and/or terms or conditions) prior to the Proposal Submission Deadline, by sending written notification through iSupplier to each party that has downloaded this RFP. NYCHA will advise such parties of any clarifications or revisions it makes to this RFP. If, in NYCHA's sole judgment, additional time is required for Proposers to respond, NYCHA may grant an extension of time to all Proposers.
- (3) NYCHA reserves the right to communicate with any of the Proposers, but it is not obligated to do so. NYCHA may discuss the Proposals of any Proposers concurrently or sequentially, as NYCHA may determine to be in its best interest. No Proposer has any rights against NYCHA arising from any such invitation to a discussion, or from any negotiations that may arise pursuant to the discussions.
- (4) A Proposer must comply with all requests for information and, if requested by NYCHA, discuss the Proposal with NYCHA. If a Proposer fails to do so within the time period given (or within any time extension that NYCHA may grant), such failure may negatively impact Proposers' score in the applicable evaluation criteria or result in NYCHA finding the Proposer non-responsive in accordance with NYCHA's procedures. In furtherance and not in limitation of the foregoing, before a final award is made, NYCHA may require a Proposer to produce more detailed information concerning the professional background of those persons who own and manage such Proposer, a report on the financial background of such Proposer, and/or information concerning the nature and status of any past, pending or threatened charges or actions (including lawsuits, criminal or disciplinary actions, administrative proceedings by any governmental or regulatory agency or bankruptcy action) against such Proposer or any of its partners, directors, officers, employees and/or shareholders.

**d. Withdrawal of Proposals**

- (1) **Prior to Proposal Submission Deadline.** A Proposer may withdraw its Proposal from consideration at any time prior to the Proposal Submission Deadline by emailing NYCHA's Coordinator notice of its desire to withdraw the Proposal.
- (2) **After Proposal Submission Deadline.** Proposers may not withdraw their Proposals for a period of 150 calendar days following the Proposal Submission Deadline, unless written permission is granted by NYCHA's Bid Release Board pursuant to any applicable NYCHA Standard Procedures. This 150-day period, as it applies to a particular Proposer, shall be extended, day for day, by the period of any delay caused by or attributable to the Proposer, including, without limitation:



(a) any delays resulting from NYCHA’s investigation of an (unsuccessful) request by the Proposer for a Proposal release; and (b) any delays resulting from Proposer’s review and/or negotiation of the Agreement (a sample of which is included as **Exhibit 2**), and/or the NYCHA General Terms and Conditions (**Exhibit 1**).

**e. Postponement or Cancellation of RFP or Rejection of All Proposals**

NYCHA reserves the right to postpone or cancel this RFP, to reject any and all Proposals, to re-advertise for new Proposals and/or not to award any Agreement pursuant to this RFP, if NYCHA deems it in its best interest to do so.

**f. Costs Incurred by Proposers**

NYCHA is not liable for any costs that a Proposer incurs in preparing its Proposal, for any work performed in connection therewith. NYCHA’s receipt of a Proposal from a Proposer in no way obligates NYCHA to such Proposer.

**g. Confidential Information**

- (1) Certain information that NYCHA may furnish in connection with this RFP may be labeled as confidential and should be treated as proprietary information of NYCHA by each recipient of this RFP. By the Proposer's receipt of this RFP, the Proposer agrees not to (a) disclose any part or all of such confidential information furnished to the Proposer pursuant to this RFP to any party, including, without limitation, any law firm or any corporate or government office, except to the extent essential to the preparation of the Proposal, and to secure from any party to whom a disclosure is made under this provision, a confidentiality agreement, executed prior to any such disclosure, in which the recipient agrees to keep confidential and to not disclose any such confidential information to any other party (a “**Confidentiality Agreement**”), (b) use such information for any purpose other than to prepare a response to this RFP. Any such Confidentiality Agreement must contain the confidentiality provisions set forth in Section 17 of the NYCHA General Terms and Conditions (**Exhibit 1**). Further, such Confidentiality Agreement must name NYCHA as an intended third-party beneficiary with the right to enforce all remedies in an event of any such breach or unauthorized disclosures.
- (2) In the event of any disclosure of any of the confidential information other than in accordance with the terms and conditions of this RFP, NYCHA, in addition to any other remedies it may have at law or equity, shall have the remedies set forth in subsections c and d of Section 17 of the NYCHA General Terms and Conditions (**Exhibit 1**).
- (3) Documents submitted to NYCHA may be subject to disclosure under the New York State Freedom of Information Law (“**FOIL**”), N.Y. Pub. Off. Law §§ 85-90. It is the Proposer’s responsibility to designate those portions of its Proposal, if any, the Proposer claims should be exempt from disclosure under FOIL. To the extent the

law permits, NYCHA will use reasonable efforts to hold the designated portions of the Proposal in confidence.

- (4) A Proposer must clearly designate in its Proposal those portions of the Proposal, if any, that the Proposer believes are trade secrets or are maintained for the regulation of commercial enterprise that, if disclosed, would cause substantial injury to the competitive position of the Proposer.

**h. Public Announcements**

Any party receiving this RFP shall not make news releases or other public announcements relating to this RFP without the prior written approval of NYCHA.

**i. NYCHA Discretion**

NYCHA, in its sole discretion, may waive what it considers to be non-material non-conformance by a Proposer with the requirements of this RFP.

**j. Anti-Corruption Notice**

All Proposers should review the Anti-Corruption notice issued by the Office of the Inspector General for the New York City Housing Authority (**Exhibit 4**).

**k. False Statements and False Claims**

Proposer's false statements and/or claims made in connection with the submission of a Proposal or Agreement could subject the Proposer, or Successful Proposer, to criminal or civil penalties pursuant to 18 U.S.C. 1001 and 31 U.S.C. 3729.

**l. Paid Sick Leave Contract Rider**

All Proposers should review the Paid Sick Leave Contract Rider (**Exhibit 5**). The Earned Sick Time Act, also known as the Paid Sick Leave Law ("PSLL"), requires covered employees who annually perform more than 80 hours of work in New York City to be provided with paid sick time. All parties contracting with NYCHA may be required to provide sick time pursuant to the PSLL. Refer to **Exhibit 5** for further information.

**m. Network Security**

NYCHA relies on its IT systems and infrastructure to meet its operational, financial, and informational obligations. Accordingly, NYCHA's IT systems, and the information and communications that are stored, processed, and presented on NYCHA systems, constitute vital NYCHA property that must be protected from misuse, and must be operated and maintained in a secure environment.

In connection therewith, in performing the Services, the Consultant will be required to

abide by and implement, as applicable, all of the requirements with respect to the protective provisions, non-disclosure requirements, and security measures pertaining to NYCHA's proprietary and confidential information (including, but not limited to, "PII" as defined in Section 17 of the NYCHA General Terms and Conditions) that are described Section 17 of the NYCHA General Terms and Conditions (**Exhibit 1**).

Additionally, any other details and specifications for NYCHA's IT system and infrastructure, and the appropriate security procedures the Consultant will follow in performing the Services, if applicable, will be made available to the Consultant at the appropriate time during the ensuing engagement.

**n. Section 3 HUD Mandate**

Proposers must refer to and abide by Section 3 of the NYCHA General Terms and Conditions (**Exhibit 1**) for applicable provisions addressing "Section 3." Proposer must also complete and submit the Section 3 Resident Economic Opportunity Plan, NYCHA Form 136.122 (**Attachment F**) with its Proposal. Section 3 is a mandate of the United States Department of Housing and Urban Development that employment and other economic opportunities generated by federal assistance shall be directed to public housing residents and other low and very-low-income persons.

If the Proposer does **not** anticipate using Section 3 workers to perform labor hours and/or subcontracting to Section 3 business concerns in connection with the Services, it must indicate as much on the Section 3 Resident Economic Opportunity Plan, and the Proposer must **also** complete and submit with its Proposal NYCHA Form 136.137, *Section 3 Other Economic Opportunities ("OEO") Plan* (**Attachment G**). In its Section 3 OEO Plan, the Proposer must provide reasonable justification for its inability to meet the requirements of using Section 3 workers to perform labor hours and/or subcontract to Section 3 business concerns and its need, therefore, to provide other economic opportunities. Other economic opportunities could include establishing training or pre-apprenticeship programs, comprehensive paid internship programs for Section 3 workers, or hiring Section 3 workers outside of the Section 3 covered contract.

**o. Contracting With Minority and Women-Owned Business Enterprises**

In July 2021, NYCHA established a program for greater participation in NYCHA procurements by New York City Department of Small Business Services ("SBS") certified minority-owned business enterprises ("MBEs") and women-owned business enterprises ("WBEs") (the "M/WBE Program" or the "Program"). The intent of the Program is to promote the public interest in avoiding discrimination, fraud and favoritism in the procurement process, increasing competition for NYCHA business, and lowering contract costs.

In furtherance of Sections 18 and 34 of the NYCHA General Terms and Conditions (**Exhibit 1**), the specific numerical requirements for MBE and/or WBE (collectively, "M/WBEs") participation for the Agreement are set forth within **Exhibit 3** to this RFP.

The Consultant must comply with and fulfill all applicable MBE and WBE requirements set forth in (i) Section 34 of the NYCHA General Terms and Conditions, (ii) **Exhibit 3** to this RFP, which shall be made part of the Agreement, and (iii) in accordance with the Consultants “M/WBE Utilization Plan” as made part of the Agreement (see **Attachment H** to this RFP).

Proposers should carefully review **Attachment H** and submit a completed **Attachment H-1** to this RFP along with its Proposal in the event it seeks a full or partial waiver from complying with the M/WBE Program’s utilization requirements.

## **2. Proposal Submission Requirements**

- a. **Proposer shall electronically upload a single .pdf containing ALL components of the Proposal into iSupplier by 2PM on the Proposal Submission Deadline. NYCHA will NOT accept hardcopy Proposals. The Proposal shall not include embedded documents or proprietary file extensions. NYCHA will not accept Proposals via e-mail, fax, or mail.**

Instructions for registering for iSupplier can be found at <http://www1.nyc.gov/site/nycha/business/isupplier-vendor-registration.page>. After Proposer registers for iSupplier, it typically takes 24 to 72 hours for Proposer’s iSupplier profile to be approved.

**It is Proposer’s sole responsibility to complete iSupplier registration and submit its Proposal before the Proposal Submission Deadline. NYCHA is not responsible for delays caused by technical difficulty or caused by any other occurrence.**

## **3. Proposal Content Requirements**

- a. **“PROPOSAL PART I - REQUIRED PROPOSAL DOCUMENTS.”** The Proposer must demonstrate, to the satisfaction of NYCHA, that it has the skill and experience, as well as the necessary personnel and financial resources, to provide the required Services in a satisfactory and timely manner. The following documents must be included in this section of the Proposer’s Proposal, in the order shown below:
- (1) A table of contents.
  - (2) A cover sheet with all the information requested below:
    - (a) The Proposer’s name and address.
    - (b) The name, title, email, and telephone number and signature of a principal or officer authorized to commit the Proposer and its resources to an Agreement with NYCHA. Explain this person’s position in the Proposer’s organization. If requested by NYCHA, Proposer shall provide documents or instruments including, but not limited to, corporate resolutions,

incumbency certificates, or other forms of verification, to confirm that the signatory thereon is duly authorized to execute such Proposal on behalf of the Proposer. If a joint venture is submitting a Proposal, the Proposal must be signed by a principal or officer of each member of the joint venture, and include a detailed description of the form of the joint venture.

- (c) The name, title, email, and telephone number of the individual to be contacted regarding the content of the Proposer's Proposal, if it is different from the person named in sub-paragraph (b), immediately above.
  - (d) A statement that the Proposal will remain in effect for 150 calendar days from the date of the Proposal Submission Deadline.
  - (e) A statement that the Proposer is able to commence the performance of the Services immediately after the Agreement is fully executed by the parties.
  - (f) A statement confirming whether the Proposer's PASSPort account and disclosure filings are up to date as of the Proposal Submission Deadline, as set forth in **Section IV(1)(b)** of this RFP.
- (3) A completed Bid/Proposal Face Sheet (**Attachment B**).
  - (4) A completed Cost Proposal as described in **Section III** of this RFP (**Attachment A**).
  - (5) An organization outline or chart identifying the names, titles and reporting relationships of key personnel who will be assigned to perform the Services, and a résumé for each such person, including training, education and prior experience. The foregoing information must also be provided for any subcontractor that the Proposer proposes to utilize.
  - (6) The Proposal must contain a narrative description of the Proposer's experience in completing services of similar size and scope.
  - (7) Proof of the Proposer's legal existence as a business entity; if the Proposer was not organized under the laws of the State of New York, proof that the Proposer is qualified to do business in New York; and, if the Proposer is conducting business under an assumed name, a copy of the certificate required to be filed pursuant to the General Business Law of the State of New York. If the Proposer is a joint venture, provide information regarding the percentage of profit and loss allocable to each member of the joint venture.
  - (8) Three non-NYCHA business references pertinent to the Scope of Services with contact information (company name, address, short description of the nature of reference, contact name and telephone number).

- (9) A summary of any non-financial resources the Proposer requires from NYCHA, if any, to fulfill its Agreement. If none, please state as such.
- (10) Documentation that demonstrates the Proposer's ability to satisfy the Minimum Qualifications Requirements, as defined in **Section V(1)** of this RFP.
- (11) A completed Doing Business Data Form ("DBDF") (**Attachment C**). Pursuant to Local Law 34 of 2007, amending New York City's ("City") 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, Proposers responding to this RFP should complete one (1) DBDF and return it with their Proposal. If the responding Proposer is a proposed joint venture, the entities that comprise the proposed joint venture must each complete a DBDF. If the City determines that a Proposer has failed to submit a DBDF or has submitted a DBDF that is not complete, the Proposer will be notified by NYCHA and will be given four (4) calendar days from the day notice is e-mailed to Proposer to cure the specified deficiencies and return a completed DBDF to NYCHA. Failure to do so will result in a determination that the Proposal is non-responsive to this RFP. To assist Proposers in completing the DBDF, **Attachment C** also includes the Questions and Answers about the Doing Business Data Form.
- (12) A completed and notarized Non-Collusive Bidding Certification (**Attachment D**).
- (13) A completed **Attachment E**, Acknowledgment of Addenda.
- (14) A completed **Attachment F**, Section 3 Resident Economic Opportunity Plan.
- (15) A completed **Attachment G**, Other Economic Opportunities (OEO) Plan (if applicable).
- (16) A completed **Attachment H**, NYCHA M/WBE Utilization Plan or completed **Exhibit H-1** if Proposer seeks a waiver.
- (17) A completed **Attachment I**, Certification of Payments to Influence Federal Transactions, if the awarded Agreement will be for \$100,000 or more.
- (18) A completed **Attachment J**, Certification Regarding Debarment and Suspension.
- (19) A completed **Attachment K**, Bidder/Proposer Debarment Certification Form
- (20) A completed **Attachment L**, Subcontractor Debarment Certification Form

- b. **“PROPOSAL PART II - SPECIFIC RESPONSES TO RFP.”** This section must include a narrative that describes the Proposer’s approach and plans for accomplishing the Scope of Services, including proposed methodologies and any other information that the Proposer determines is relevant. If portions of the Scope of Services will be performed by a subcontractor or allocated between members of a joint venture, the Proposer should describe its plans in this regard. If a topic in this RFP is not addressed in the Proposal, state that the Proposal does not contain a submission on this topic.
- c. **“PROPOSAL PART III - EXCEPTIONS TO THE TERMS OF THIS RFP.”** The Proposer must clearly identify and explain in this part of its Proposal, under a heading entitled “Exceptions,” any exception that it may take to any of the terms and conditions of this RFP, including the NYCHA General Terms and Conditions (**Exhibit 1**). If the Proposer does not have any exceptions, the Proposer must affirmatively state as such. Any exception that surfaces elsewhere within the Proposal shall be considered invalid and void, and of no contractual significance.
- e. **“PROPOSAL PART IV - ADDITIONAL BROCHURES AND ATTACHMENTS” (OPTIONAL).** Proposer may include articles, brochures, and other material not specifically prepared for this RFP, but that the Proposer believes will help NYCHA to evaluate the Proposer’s qualifications and Proposal.

## SECTION V

### CRITERIA FOR NYCHA EVALUATION OF PROPOSALS

#### 1. Minimum Qualifications Requirements

NYCHA will consider only those Proposers who are able to meet the following minimum qualifications (“**Minimum Qualifications**”):

- a. If proposing to perform Services, the Proposer must maintain a primary office location within the five Boroughs of New York City. Proposer must also have a warehouse located within the 5 boroughs of New York City.
- b. The Proposer must document that it has at least ten years of prior experience in providing similar Services. The Proposer is proposing to perform, as demonstrated by the Proposer’s narrative of its prior experience submitted as part of the Proposal and measured from the Proposal Submission Deadline.
- c. The Proposer must document that its field technicians who will perform the Services possess at least five years’ experience of field technician services and support experience and hold all required licenses and qualifications to perform the Services, as demonstrated

by the Proposer's narrative of its staff's prior experience submitted as part of the Proposal and measured from the Proposal Submission Deadline.

**2. Exceptions to this RFP**

Submission of a Proposal signifies that the Proposer is aware of, and agrees to, all the terms and conditions of this RFP, including those incorporated by reference, except to the extent that any specific written exception to those terms and conditions is stated in the designated section of the Proposal, pursuant to **Section IV(3)(c)** of this RFP. The evaluation of a Proposal may be negatively affected by any exception taken by the Proposer to any part of this RFP, or by the failure of the Proposer to furnish all information required by this RFP. The RFP Evaluation Committee reserves the right to seek guidance from NYCHA's Law Department regarding whether and how any stated exceptions may affect the selection process and NYCHA reserves the right, in its sole discretion, to refuse to consider any exception that is not so identified in the Proposer's Proposal. If the Proposer does not have any exceptions, the Proposer must affirmatively state as such within their Proposal.

**3. Evaluation Criteria**

a. Proposals will be evaluated by an RFP Evaluation Committee formed by NYCHA. The RFP Evaluation Committee will also consider information provided by Proposers during Proposer interviews and presentations, if any. The evaluation will be determined by total points given to each Proposer in each of the below categories. The first figure in the parentheses listed for each category reflects the maximum number of points that will be awarded for that category. The second number reflects the minimum number of points that a Proposer must be awarded for that category to avoid disqualification at NYCHA's discretion.

(1) Proposer's approach, strategy, and methodology for providing the services.

**(25 points maximum/10 points minimum)**

(2) The qualifications of Proposer, including evidence of Proposer ability to perform Services as outlined in **Section II** (Scope of Services) of this RFP.

**(25 points maximum/10 points minimum)**

(3) The Proposer's organizational/staffing structure and key personnel composition required to perform the scope.

**(20 points maximum/10 points minimum)**

(4) The Proposer's Cost Proposal.



**(20 points maximum/10 points minimum)**

(5) Proposer's Commitment To M/WBE and Section 3 Compliance:

M/WBE

- Timely completion and successful submission of M/WBE Utilization Form – 1 Point
- Proposed subcontracting percentage – 3 Points
- Proposer narrative regarding commitment to NYCHA M/WBE goal including achievement plans and proactive correction methods to supplement goal deficiencies. – 1 Point

Section 3

- Timely completion and successful submission of Section 3 Hiring Plan – 1 Point
- Program participation over minimum 25% – 3 Points
- Proposer narrative regarding commitment to NYCHA Section 3 program including achievement plans and proactive correction methods to supplement goal deficiencies. – 1 Point

**(10 points maximum/ 5 points minimum)**

- b. For clarification and validation purposes, the evaluation of the Proposals may require NYCHA to (i) interview the Proposer, (ii) seek presentations by the Proposer, and/or (iii) engage in telephone, e-mail and other correspondence with authorized Proposer representatives. Additionally, NYCHA reserves the right to confer with any additional references it deems necessary in order to discern relevant past performance or other information.
- c. NYCHA will rank the Proposers in numerical order, based on the sum of the points awarded pursuant to the above evaluation criteria. NYCHA has the right, but not the obligation, to ask the highest scoring Proposers to submit best and final offers (“BAFOs”) at any time prior to the award of the Agreement. In the event NYCHA requests BAFOs, NYCHA may evaluate or reevaluate (as applicable) the Proposer’s Cost Proposal pursuant to the evaluation criteria set forth herein and if NYCHA is reevaluating the Proposals, NYCHA may adjust the total number of points awarded to the Proposer in connection with its Cost Proposal based on the results such reevaluation. Proposers are cautioned that the BAFO is optional and at the sole discretion of NYCHA. Therefore, Proposers are encouraged provide their lowest pricing in their initial Proposals.

**4. Award of Agreements**

- a. After completion of the evaluation of Proposals and following the Law Department’s review of any exceptions stated in the Proposals, NYCHA may engage in preliminary negotiations with Proposers scoring within the competitive range. NYCHA reserves the

- right to award up to one (1) agreement arising out of this RFP to the highest scoring responsible Proposers. If NYCHA awards multiple Agreements under this RFP, the Selected Proposer(s) acknowledge(s) and agree(s) that any such award of Agreement(s) to other Selected Proposers shall not be seen as, or constitute, an attempt by NYCHA to deprive the Selected Proposer(s) of any payments, compensation, business opportunities, or other benefits under the awarded Agreements.
- b. Before expiration of the 150-calendar day period referred to in **Section IV(1)(d)(2)** above, NYCHA will advise the Selected Proposer(s) that it/they has/have been selected as the Consultant(s).
  - b. NYCHA expects to enter into a three (3) year Agreement with the Selected Proposer, subject to renewal for any of the Renewal Periods, at NYCHA's discretion, which will be in the general format of the sample agreement (the "**Sample Agreement**") (**Exhibit 2**), and will encompass (1) the terms and conditions of the Sample Agreement, subject to **Section V(4)(d)** below, (2) this RFP and the exhibits hereto that are incorporated by reference into the Agreement (which will include the NYCHA General Terms and Conditions (**Exhibit 1**), or as same may be modified by NYCHA prior to Agreement award), and (3) the Selected Proposer's Proposal and all subsequent modifications thereto.
  - d. NYCHA, with respect to the Sample Agreement (**Exhibit 2**), reserves the right, at its discretion, to correct, modify, or otherwise change any term or condition that is set forth therein, in any manner in which NYCHA deems appropriate, and at any time up until the Agreement is duly executed by each of NYCHA and the Selected Proposer.
  - e. Within 10 calendar days after the Selected Proposer receives notification of its selection, the Selected Proposer must procure insurance meeting all of the requirements of the NYCHA General Terms and Conditions (**Exhibit 1**) and must provide proof of such insurance to NYCHA.
  - f. The Selected Proposer must execute the Agreement with NYCHA within a reasonable time period, not to exceed 20 calendar days, following NYCHA's notification to the Selected Proposer that it has been selected and such 20 calendar-day period may only be extended by NYCHA at NYCHA's sole and absolute discretion. If the Selected Proposer does not enter into the Agreement within such time period, NYCHA may disqualify such Selected Proposer and select another Proposer.
  - g. Selection of the Consultant is subject to review and rejection by NYCHA's Department of Equal Opportunity.
  - h. During the Term of the Agreement Consultant must have in effect any required licenses and permits necessary to perform the Services required under the Agreement. Failure to do so shall be deemed a breach of the Agreement.
  - i. NYCHA specifically reserves the right to award the Agreement to a Proposer other than the Proposer presenting the lowest price.

\*\*\*\*

**COST PROPOSAL**

**PROPOSER'S NAME:** \_\_\_\_\_

**Check Applicable Box:**      Initial Cost Proposal

Response to a NYCHA request for a Best and Final Offer

**Date Completed:**            \_\_\_\_/\_\_\_\_/\_\_\_\_

[INSERT RFP SPECIFIC COST PROPOSAL INFORMATION]

**ATTACHMENT A**  
**COST PROPOSAL**

**1. Field Services** (to be completed)

a. Flat fixed fee payable by NYCHA per Field Ticket.

Flat Fee Initial Term Year 1	Flat Fee Initial Term Year 2	Flat Fee Initial Term Year 3	Flat Fee First Renewal Period	Flat Fee Second Renewal Period
\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

b. Flat fees set forth in Section 2(a) above all inclusive of all costs and expenses

c. Cost to NYCHA **per year** based on 70 Field Tickets per month at the flat fees set forth in Section 2(a) above plus the reimbursable expenses set forth in Section 2(c) above, if the flat fees are not all inclusive. **The information in this Section 2(d) is for evaluation and illustrative purposes only.**

Total Cost per 70 Field Tickets per Month Initial Term Year 1	Total Cost per 70 Field Tickets per Month Initial Term Year 2	Total Cost per 70 Field Tickets per Month Initial Term Year 3	Total Cost per 70 Field Tickets per Month First Renewal Period	Total Cost per 70 Field Tickets per Month Renewal Period
\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

a. Fixed hourly rates set forth in Section 3(a) above all inclusive of all costs and expenses

- d. Cost to NYCHA **per year** based on two authorizations per month for On Demand Services that are the same as the On Demand Services described in **Section III** of the RFP, at the fixed hourly rates set forth in Section 3(a) above plus the reimbursable expenses set forth in Section 3(c) above, if the flat fees are not all inclusive. **The information in this Section 3(d) is for evaluation and illustrative purposes only.**

- a. Staff titles and fixed hourly rates payable by NYCHA for On Demand Services. These fixed hourly rates shall also be applicable to the Staff Augmentation Services described in **Section III** of the RFP, when such services are required by NYCHA:

<b>Staff Tiles</b>	<b>Fixed Hourly Rates Initial Term Year 1</b>	<b>Fixed Hourly Rates Initial Term Year 2</b>	<b>Fixed Hourly Rates Initial Term Year 3</b>	<b>Fixed Hourly Rates First Renewal Period</b>	<b>Fixed Hourly Rates Second Renewal Period</b>

- b. Fixed hourly rates set forth in Section 3(a) above all inclusive of all costs and expenses

<b>Total Cost per two On-Demand Services per Month Initial Term Year 1</b>	<b>Total Cost per two On-Demand Services per Month Initial Term Year 2</b>	<b>Total Cost per two On-Demand Services per Month Initial Term Year 3</b>	<b>Total Cost per two On-Demand Services per Month First Renewal Period</b>	<b>Total Cost per two On-Demand Services per Month Renewal Period</b>
\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

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

Name of Authorized Person: \_\_\_\_\_

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

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

**ATTACHMENT B**

**BID/PROPOSAL FACE SHEET**



NEW YORK CITY HOUSING AUTHORITY

**BID/PROPOSAL FACE SHEET**

**ALL VENDORS MUST COMPLETE AND SUBMIT A BID/PROPOSAL FACE SHEET FOR CONTRACT BIDS OF MORE THAN \$10,000 AS PART OF THE BID/PROPOSAL SUBMISSION.**

DEPARTMENT/DEVELOPMENT															
BID/CONTRACT NUMBER	CONTRACT FOR:														
BUSINESS APPLICANT NAME	TAX ID NUMBER														
D/B/A OR TRADE NAME (If Any): _____ BUSINESS ADDRESS: _____ MAILING ADDRESS (If Different): _____ REMIT TO ADDRESS (If Different): _____ TELEPHONE #: _____ CELL PHONE #: _____ FAX #: _____ WEBSITE: _____ CONTACT PERSON: _____ TITLE: _____ E-MAIL ADDRESS: _____															
<p><b>IT IS THE POLICY OF THE NEW YORK CITY HOUSING AUTHORITY (NYCHA) TO ENSURE THAT ALL BUSINESSES HAVE AN EQUAL OPPORTUNITY TO PARTICIPATE IN ALL ASPECTS OF NYCHA'S PROCUREMENT OF GOODS AND SERVICES WITHOUT REGARD TO THE RACE, COLOR, RELIGION, MILITARY SERVICE, NATIONAL ORIGIN, SEX, AGE, DISABILITY, MARITAL STATUS OR SEXUAL ORIENTATION OF THE OWNERS, PARTNERS OR STOCKHOLDERS. FURTHER, NYCHA IS COMMITTED TO ACHIEVE MAXIMUM PARTICIPATION OF MINORITY, WOMEN, AND SMALL BUSINESS ENTERPRISES (MWSBEs) IN NYCHA'S PROCESS OF AWARDING CONTRACTS FOR GOODS AND SERVICES.</b></p>															
<input type="checkbox"/> PLEASE CHECK HERE IF THE FOLLOWING DOES NOT APPLY TO YOUR BUSINESS. 1. IS THIS BUSINESS AT LEAST FIFTY-ONE (51%) OWNED, CONTROLLED AND OPERATED BY (or in the case of a publicly owned business at least fifty-one percent (51%) of the stock is owned by) CITIZENS OR PERMANENT RESIDENT ALIENS WHO ARE (Please Check All That Apply): <table style="width:100%; border:none;"> <tr> <td style="width:50%; vertical-align: top;"> <input type="checkbox"/> <b>ASIAN / PACIFIC</b> - ASIAN AND PACIFIC ISLANDER AMERICAN PERSONS HAVING ORIGINS IN ANY OF THE FAR EAST COUNTRIES, SOUTH EAST ASIA, THE INDIAN SUBCONTINENT OR THE PACIFIC ISLANDS   <input type="checkbox"/> <b>BLACK</b> - BLACK PERSONS HAVING ORIGINS IN ANY OF THE BLACK AFRICAN RACIAL GROUPS   <input type="checkbox"/> <b>HASIDIC JEWS</b> </td> <td style="width:50%; vertical-align: top;"> <input type="checkbox"/> <b>HISPANIC</b> - HISPANIC PERSONS OF MEXICAN, PUERTO RICAN, DOMINICAN, CUBAN, CENTRAL OR SOUTH AMERICAN DESCENT, OF EITHER INDIAN OR HISPANIC ORIGIN, REGARDLESS OF RACE   <input type="checkbox"/> <b>NATIVE AMERICAN</b> - NATIVE AMERICAN OR ALASKAN NATIVE PERSONS HAVING ORIGINS IN ANY OF THE ORIGINAL PEOPLES OF NORTH AMERICA   <input type="checkbox"/> <b>WOMEN</b> </td> </tr> </table> 2. CERTIFIED AS MBE, WBE, SBE OR RESIDENT OWNED BUSINESS: IS THIS BUSINESS CERTIFIED AS ANY OF THE FOLLOWING TYPES OF BUSINESS ENTERPRISE BY A GOVERNMENT AGENCY OR AUTHORITY? IF YES, ATTACH COPIES OF ALL SUCH CERTIFICATIONS. <table style="width:100%; border:none;"> <tr> <td style="width:25%;">MINORITY - OWNED BUSINESS ENTERPRISE (MBE)</td> <td style="width:10%;"><input type="checkbox"/> YES</td> <td style="width:10%;"><input type="checkbox"/> NO</td> <td style="width:25%;">SMALL BUSINESS ENTERPRISE (SBE)</td> <td style="width:10%;"><input type="checkbox"/> YES</td> <td style="width:10%;"><input type="checkbox"/> NO</td> </tr> <tr> <td>WOMEN - OWNED BUSINESS ENTERPRISE (WBE)</td> <td><input type="checkbox"/> YES</td> <td><input type="checkbox"/> NO</td> <td>NYC HOUSING AUTHORITY RESIDENT OWNED BUSINESS</td> <td><input type="checkbox"/> YES</td> <td><input type="checkbox"/> NO</td> </tr> </table> 3. <b>VETERAN-OWNED BUSINESS</b> REFERS TO A BUSINESS THAT IS AT LEAST 51% OWNED BY ONE OR MORE VETERANS, OR IN THE CASE OF ANY PUBLICLY OWNED BUSINESS, NOT LESS THAN 51% OF THE STOCK MUST BE OWNED BY ONE OR MORE VETERANS; THE MANAGEMENT AND DAILY BUSINESS OPERATIONS <b>ALSO MUST BE</b> CONTROLLED BY ONE OR MORE VETERANS. 4. IS THIS VETERAN-OWNED BUSINESS CERTIFIED BY A GOVERNMENT AGENCY? IF <b>YES</b> , ATTACH A COPY OF A COPY OF ALL SUCH CERTIFICATION. If you have a Department of Defense Form 214 (DD 214), please attach. VETERAN-OWNED BUSINESS <input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> <b>ASIAN / PACIFIC</b> - ASIAN AND PACIFIC ISLANDER AMERICAN PERSONS HAVING ORIGINS IN ANY OF THE FAR EAST COUNTRIES, SOUTH EAST ASIA, THE INDIAN SUBCONTINENT OR THE PACIFIC ISLANDS  <input type="checkbox"/> <b>BLACK</b> - BLACK PERSONS HAVING ORIGINS IN ANY OF THE BLACK AFRICAN RACIAL GROUPS  <input type="checkbox"/> <b>HASIDIC JEWS</b>	<input type="checkbox"/> <b>HISPANIC</b> - HISPANIC PERSONS OF MEXICAN, PUERTO RICAN, DOMINICAN, CUBAN, CENTRAL OR SOUTH AMERICAN DESCENT, OF EITHER INDIAN OR HISPANIC ORIGIN, REGARDLESS OF RACE  <input type="checkbox"/> <b>NATIVE AMERICAN</b> - NATIVE AMERICAN OR ALASKAN NATIVE PERSONS HAVING ORIGINS IN ANY OF THE ORIGINAL PEOPLES OF NORTH AMERICA  <input type="checkbox"/> <b>WOMEN</b>	MINORITY - OWNED BUSINESS ENTERPRISE (MBE)	<input type="checkbox"/> YES	<input type="checkbox"/> NO	SMALL BUSINESS ENTERPRISE (SBE)	<input type="checkbox"/> YES	<input type="checkbox"/> NO	WOMEN - OWNED BUSINESS ENTERPRISE (WBE)	<input type="checkbox"/> YES	<input type="checkbox"/> NO	NYC HOUSING AUTHORITY RESIDENT OWNED BUSINESS	<input type="checkbox"/> YES	<input type="checkbox"/> NO
<input type="checkbox"/> <b>ASIAN / PACIFIC</b> - ASIAN AND PACIFIC ISLANDER AMERICAN PERSONS HAVING ORIGINS IN ANY OF THE FAR EAST COUNTRIES, SOUTH EAST ASIA, THE INDIAN SUBCONTINENT OR THE PACIFIC ISLANDS  <input type="checkbox"/> <b>BLACK</b> - BLACK PERSONS HAVING ORIGINS IN ANY OF THE BLACK AFRICAN RACIAL GROUPS  <input type="checkbox"/> <b>HASIDIC JEWS</b>	<input type="checkbox"/> <b>HISPANIC</b> - HISPANIC PERSONS OF MEXICAN, PUERTO RICAN, DOMINICAN, CUBAN, CENTRAL OR SOUTH AMERICAN DESCENT, OF EITHER INDIAN OR HISPANIC ORIGIN, REGARDLESS OF RACE  <input type="checkbox"/> <b>NATIVE AMERICAN</b> - NATIVE AMERICAN OR ALASKAN NATIVE PERSONS HAVING ORIGINS IN ANY OF THE ORIGINAL PEOPLES OF NORTH AMERICA  <input type="checkbox"/> <b>WOMEN</b>														
MINORITY - OWNED BUSINESS ENTERPRISE (MBE)	<input type="checkbox"/> YES	<input type="checkbox"/> NO	SMALL BUSINESS ENTERPRISE (SBE)	<input type="checkbox"/> YES	<input type="checkbox"/> NO										
WOMEN - OWNED BUSINESS ENTERPRISE (WBE)	<input type="checkbox"/> YES	<input type="checkbox"/> NO	NYC HOUSING AUTHORITY RESIDENT OWNED BUSINESS	<input type="checkbox"/> YES	<input type="checkbox"/> NO										
PRINT NAME OF BUSINESS REPRESENTATIVE COMPLETING THIS FORM: _____ TITLE: _____ SIGNATURE: _____ DATE COMPLETED: _____															



**ATTACHMENT C**

**DOING BUSINESS DATA FORM**

To be completed by the City agency prior to distribution Agency \_\_\_\_\_ Transaction ID \_\_\_\_\_

**Check One**

**Transaction Type (check one)**

- Proposal  Award  Concession  Economic Development Agreement  Franchise  Grant  Pension Investment Contract  Contract

Any entity receiving, applying for or proposing on an award or agreement must complete a Doing Business Data Form (see Q&A sheet for more information). Please either type responses directly into this fillable form or print answers by hand in black ink, and be sure to fill out the certification box on the last page. **Submission of a complete and accurate form is required for a proposal to be considered responsive or for any entity to receive an award or enter into an agreement.**

This Data Form requires information to be provided on principal officers, owners and senior managers. The name, employer and title of each person identified on the Data Form will be included in a public database of people who do business with the City of New York, as will the organizations that own 10% or more of the entity. No other information reported on this form will be disclosed to the public. **This Data Form is not related to the City's PASSPort registration or VENDEX requirements.**

**Please return the completed Data Form to the City office that supplied it.** Please contact the Doing Business Accountability Project at [DoingBusiness@mocs.nyc.gov](mailto:DoingBusiness@mocs.nyc.gov) or 212-788-8104 with any questions regarding this Data Form. Thank you for your cooperation.

**Entity Information**

*If you are completing this form by hand, please print clearly.*

Entity EIN/TIN \_\_\_\_\_ Entity Name \_\_\_\_\_

**Filing Status**

**(Select One)**

**NEW:** Data Forms submitted now must include the listing of **organizations**, as well as individuals, with 10% or more ownership of the entity. Until such certification of ownership is submitted through a change, new or update form, a no change form will not be accepted.

- Entity has never completed a Doing Business Data Form. Fill out the entire form.  
 Change from previous Data Form dated \_\_\_\_\_. Fill out only those sections that have changed, and indicate the name of the persons who no longer hold positions with the entity.  
 No Change from previous Data Form dated \_\_\_\_\_. Skip to the bottom of the last page.

**Entity is a Non-Profit**  Yes  No

**Entity Type**  Corporation (any type)  Joint Venture  LLC  Partnership (any type)  Sole Proprietor  Other (specify) \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_ E-mail \_\_\_\_\_

*Provide your e-mail address in order to receive notices regarding this form by e-mail.*

**Principal Officers**

Please fill in the required identification information for each officer listed below. If the entity has no such officer or its equivalent, please check "This position does not exist." If the entity is filing a Change Form and the person listed is replacing someone who was previously disclosed, please check "This person replaced..." and fill in the name of the person being replaced so his/her name can be removed from the *Doing Business Database*, and indicate the date that the change became effective.

**Chief Executive Officer (CEO) or equivalent officer**

This position does not exist

*The highest ranking officer or manager, such as the President, Executive Director, Sole Proprietor or Chairperson of the Board.*

First Name \_\_\_\_\_ MI \_\_\_\_\_ Last \_\_\_\_\_ Birth Date (mm/dd/yy) \_\_\_\_\_

Office Title \_\_\_\_\_ Employer (if not employed by entity) \_\_\_\_\_

Home Address \_\_\_\_\_

This person replaced former CEO \_\_\_\_\_ on date \_\_\_\_\_

**Chief Financial Officer (CFO) or equivalent officer**

This position does not exist

*The highest ranking financial officer, such as the Treasurer, Comptroller, Financial Director or VP for Finance.*

First Name \_\_\_\_\_ MI \_\_\_\_\_ Last \_\_\_\_\_ Birth Date (mm/dd/yy) \_\_\_\_\_

Office Title \_\_\_\_\_ Employer (if not employed by entity) \_\_\_\_\_

Home Address \_\_\_\_\_

This person replaced former CFO \_\_\_\_\_ on date \_\_\_\_\_

**Chief Operating Officer (COO) or equivalent officer**

This position does not exist

*The highest ranking operational officer, such as the Chief Planning Officer, Director of Operations or VP for Operations.*

First Name \_\_\_\_\_ MI \_\_\_\_\_ Last \_\_\_\_\_ Birth Date (mm/dd/yy) \_\_\_\_\_

Office Title \_\_\_\_\_ Employer (if not employed by entity) \_\_\_\_\_

Home Address \_\_\_\_\_

This person replaced former COO \_\_\_\_\_ on date \_\_\_\_\_

**Principal Owners**

Please fill in the required identification information for all individuals or organizations that, through stock shares, partnership agreements or other means, **own or control 10% or more of the entity**. If no individual or organization owners exist, please check the appropriate box to indicate why and skip to the **Senior Managers** section. If the entity is owned by other companies that control 10% or more of the entity, those companies must be listed. If an owner was identified on the previous page, fill in his/her name and write "See above." If the entity is filing a Change Form, list any individuals or organizations that are no longer owners at the bottom of this section. If more space is needed, attach additional pages labeled "Additional Owners."

**There are no owners listed because (select one):**

- The entity is not-for-profit
- The entity is an individual
- No individual or organization owns 10% or more of the entity

Other (explain) \_\_\_\_\_

**Individual Owners (who own or control 10% or more of the entity)**

First Name \_\_\_\_\_ MI \_\_\_\_ Last \_\_\_\_\_ Birth Date (mm/dd/yy) \_\_\_\_\_

Office Title \_\_\_\_\_ Employer (if not employed by entity) \_\_\_\_\_

Home Address \_\_\_\_\_

First Name \_\_\_\_\_ MI \_\_\_\_ Last \_\_\_\_\_ Birth Date (mm/dd/yy) \_\_\_\_\_

Office Title \_\_\_\_\_ Employer (if not employed by entity) \_\_\_\_\_

Home Address \_\_\_\_\_

**Organization Owners (that own or control 10% or more of the entity)**

Organization Name \_\_\_\_\_

Organization Name \_\_\_\_\_

Organization Name \_\_\_\_\_

**Remove the following previously-reported Principal Owners**

Name \_\_\_\_\_ Removal Date \_\_\_\_\_

Name \_\_\_\_\_ Removal Date \_\_\_\_\_

Name \_\_\_\_\_ Removal Date \_\_\_\_\_

**Senior Managers**

Please fill in the required identification information for all senior managers who oversee any of the entity's relevant transactions with the City (e.g., contract managers if this form is for a contract award/proposal, grant managers if for a grant, etc.). Senior managers include anyone who, either by title or duties, has substantial discretion and high-level oversight regarding the solicitation, letting or administration of any transaction with the City. At least one senior manager must be listed, or the Data Form will be considered incomplete. If a senior manager has been identified on a previous page, fill in his/her name and write "See above." If the entity is filing a Change Form, list individuals who are no longer senior managers at the bottom of this section. If more space is needed, attach additional pages labeled "Additional Senior Managers."

**Senior Managers**

First Name \_\_\_\_\_ MI \_\_\_\_ Last \_\_\_\_\_ Birth Date (mm/dd/yy) \_\_\_\_\_

Office Title \_\_\_\_\_ Employer (if not employed by entity) \_\_\_\_\_

Home Address \_\_\_\_\_

First Name \_\_\_\_\_ MI \_\_\_\_ Last \_\_\_\_\_ Birth Date (mm/dd/yy) \_\_\_\_\_

Office Title \_\_\_\_\_ Employer (if not employed by entity) \_\_\_\_\_

Home Address \_\_\_\_\_

First Name \_\_\_\_\_ MI \_\_\_\_ Last \_\_\_\_\_ Birth Date (mm/dd/yy) \_\_\_\_\_

Office Title \_\_\_\_\_ Employer (if not employed by entity) \_\_\_\_\_

Home Address \_\_\_\_\_

**Remove the following previously-reported Senior Managers**

Name \_\_\_\_\_ removal date \_\_\_\_\_

Name \_\_\_\_\_ removal date \_\_\_\_\_

**Certification**

I certify that the information submitted on these two pages and \_\_\_\_\_ additional pages is accurate and complete. I understand that willful or fraudulent submission of a materially false statement may result in the entity being found non-responsible and therefore denied future City awards.

Name \_\_\_\_\_ Title \_\_\_\_\_

Entity Name \_\_\_\_\_ Work Phone # \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

## How Entities Should Complete the First Doing Business Data Form of 2018 to Certify Ownership Status

Entities filing a Doing Business Data Form (DBDF) must certify if an organization holds 10% or more ownership of the entity. To do so, they must complete the new 2018 DBDF. The top of the new forms looks like this [doingbusiness@mocs.nyc.gov](mailto:doingbusiness@mocs.nyc.gov).

Unless an entity has never filed before, the first DBDF of 2018 should be completed with a filing status of “change from previous data form”. Many entities currently in the system will wish to file to certify no changes since pervious form, or make changes that do not include certification of their organization ownership status. **Such entities MUST submit a 2018 DBDF to certify if there are organizations that own 10% or more of the entity before any no change or change DBDFs may be accepted.**

A new or change 2018 DBDF should certify organization ownership status in one of three ways:

1. If there are no owners at all, choose the appropriate reason in the box.
2. If the Filing Entity has no Organization Owners, but has Individual Owners (thus can't choose box #3) they have previously reported, they should write “There are no organization owners” in the “Other” line at the start of the Owner section.

3. If there are Organization Owners, their names should be entered in that section.

To inquire if an entity has filed a 2018 DBDF and certified their organization ownership certification please email [doingbusiness@mocs.nyc.gov](mailto:doingbusiness@mocs.nyc.gov) or call 212-788-8104.

### **What is the purpose of the Doing Business Data Form (DBDF)?**

To collect accurate, up-to-date identification information about organizations that have business dealings with the City of New York in order to comply with Local Law 34 of 2007 (LL 34), a campaign finance reform law. LL 34 limits municipal campaign contributions from principal officers, owners and senior managers of entities doing business with the City and mandates the creation of a Doing Business Database to allow the City to enforce the law. The information requested in this DBDF must be provided, regardless of whether the organization or the people associated with it make or intend to make campaign contributions. No sensitive personal information collected will be disclosed to the public.

### **Why have I received this DBDF?**

The contract, franchise, concession, grant or economic development agreement you are proposing on, applying for or have already been awarded is considered a business dealing with the City under LL 34. No proposal or application will be considered and no award will be made unless this DBDF is completed. Most transactions valued at more than \$5,000 are considered business dealings and require completion of the Doing Business Data Form. Exceptions include transactions awarded on an emergency basis or by "conventional" competitive sealed bid (i.e. bids that do not use a prequalified list or "Best Value" selection criteria.) Other types of transactions that are considered business dealings include real property and land use actions with the City.

### **What individuals will be included in the Doing Business Database?**

The principal officers, owners and certain senior managers of organizations listed in the Doing Business Database are themselves considered to be doing business with the City and will be included in the Database.

- **Principal Officers** are the Chief Executive Officer (CEO), Chief Financial Officer (CFO) and Chief Operating Officer, or their functional equivalents. See the DBDF for examples of titles that apply.
- **Principal Owners** are individuals who own or control 10% or more of the organization. This includes stockholders, partners and anyone else with an ownership or controlling interest in the entity.
- **Senior Managers** include anyone who, either by job title or actual duties, has substantial discretion and high-level oversight regarding the solicitation, letting or administration of any contract, concession, franchise, grant or economic development agreement with the City. At least one Senior Manager must be listed or the Data Form will be considered incomplete.

**NEW FOR 2018: As of January 2018, the DBDF must report organizations, as well as individuals, that own 10% or more of the entity. A DBDF with such a certification, filed as a full (never filed before) or as a change form, must be submitted before an entity can then file a DBDF that indicates no changes since the previous form. Contact DBA at 212-788-8104 or at [doingbusiness@mocs.nyc.gov](mailto:doingbusiness@mocs.nyc.gov) to inquire if DBA has received such a form.**

### **I have already completed a Doing Business Data Form, do I have to submit another one?**

Yes. An organization is required to submit a DBDF each time it enters into a transaction considered a business dealing with the City, including contract, concession and franchise proposals. However, the DBDF has both a Change option, which requires only information that has changed since the last DBDF was filed, and a No Change option. No organization should have to fill out the entire DBDF more than once.

If you have already submitted a DBDF for one transaction type (such as a contract), and this is the first time you are completing a DBDF for a different transaction type (such as a grant), please select the Change option and complete Section 4 (Senior Managers) for the new transaction type.

### **Will the personal information on the DBDF be available to the public?**

No. The names and titles of the officers, owners and senior managers reported on the DBDF will be made available to the public, as will information about the organization itself. However, personal identifying information, such as home address and date of birth, will not be disclosed to the public, and home address will not be used for communication purposes.

### **I provided some of this information in PASSPort; do I have to provide it again?**

Yes. Although a Doing Business Data Form and PASSPort request some of the same information, they serve entirely different purposes. In addition, the DBDF requests information concerning senior managers, which is not in PASSPort.

### **What organizations will be included in the Doing Business Database?**

Organizations that hold \$100,000 or more in grants, contracts for goods or services, franchises or concessions (\$500,000 for construction contracts), or that hold any economic development agreement or pension fund investment contract, are considered to be doing business with the City for the purposes of LL 34. Because all of the business that an organization does or proposes to do with the City will be added together, the DBDF must be completed for all transactions valued at more than \$5,000 even if the organization doesn't currently do enough business with the City to be listed in the Database.

### **No one in my organization plans to contribute to a candidate; do I have to fill out this DBDF?**

Yes. All organizations are required to return this DBDF with complete and accurate information, regardless of the history or intention of the entity or its officers, owners or senior managers to make campaign contributions. The Doing Business Data Form must be complete so that the Campaign Finance Board can verify whether future contributions are in compliance with the law.

### **My organization is proposing on a contract with another firm as a Joint Venture that does not exist yet; how should the Data Form be completed?**

A joint venture that does not yet exist must submit a DBDF for each of its component firms. If the joint venture receives the award, it must then complete a form in the name of the joint venture.

### **How long will an organization and its officers, owners and senior managers remain listed on the Doing Business Database?**

- **Contract, Concession and Economic Development Agreement holders:** generally for the term of the transaction, plus one year.
- **Franchise and Grant holders:** from the commencement or renewal of the transaction, plus one year.
- **Pension investment contracts:** from the time of presentation on an investment opportunity or the submission of a proposal, whichever is earlier, until the end of the contract, plus one year.
- **Line item and discretionary appropriations:** from the date of budget adoption until the end of the contract, plus one year.
- **Contract proposers:** for one year from the proposal date or date of public advertisement of the solicitation, whichever is later.
- **Franchise and Concession proposers:** for one year from the proposal submission date.

For information on other transaction types, contact the Doing Business Accountability Project.

### **How does a person remove him/herself from the Doing Business Database?**

When an organization stops doing business with the City, the people associated with it are removed from the Database automatically. However, any person who believes that s/he should not be listed may apply for removal. Reasons that a person would be removed include his/her no longer being the principal officer, owner or senior manager of the organization. Organizations may also update their database information by submitting an update form. Removal Request and Update forms are available online <https://www1.nyc.gov/site/mocs/resources/forms.page> or by calling 212-788-8104.

### **What are the campaign contribution limits for people doing business with the City?**

Contributions to City Council candidates are limited to \$250 per election cycle; \$320 to Borough President candidates; and \$400 to candidates for citywide office. Please contact the NYC Campaign Finance Board for more information at [www.nyccfb.info](http://www.nyccfb.info), or 212-306-7100.

### **The DBDF is to be returned to the City office that issued it.**

If you have any questions about the Doing Business Data Form please contact the Doing Business Accountability Project at 212-788-8104 or [doingbusiness@mocs.nyc.gov](mailto:doingbusiness@mocs.nyc.gov).

**ATTACHMENT D**

**NON-COLLUSIVE BIDDING CERTIFICATION**



**NON-COLLUSIVE BIDDING CERTIFICATION**

*(Required by Section 151(5) of the New York State Public Housing Law)*

By submission of this Proposal, each Proposer and each person signing on behalf of any Proposer certifies, and in the case of a joint Proposal each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his/her knowledge and belief:

- (i) the prices in this Proposal have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other Proposer or with any competitor;
- (ii) unless otherwise required by law, the prices which have been quoted in this Proposal have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by the Proposer prior to opening, directly or indirectly, to any other Proposer or to any competitor; and
- (iii) no attempt has been made or will be made by the Proposer to induce any other person, partnership or corporation to submit or not to submit a Proposal for the purpose of restricting competition.

**A PROPOSAL SHALL NOT BE CONSIDERED FOR AWARD NOR SHALL ANY AWARD BE MADE WHERE (i), (ii), (iii) ABOVE HAVE NOT BEEN COMPLIED WITH; PROVIDED HOWEVER, THAT IF IN ANY CASE THE PROPOSER CANNOT MAKE THE FOREGOING CERTIFICATION, THE PROPOSER SHALL SO STATE AND SHALL FURNISH BELOW A SIGNED STATEMENT WHICH SETS FORTH IN DETAIL THE REASONS THEREFORE:**

[AFFIX ADDENDUM TO THIS PAGE IF SPACE IS REQUIRED FOR STATEMENT.]

**Name of Proposer\*:** \_\_\_\_\_

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

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

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

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

Subscribed to under penalty of perjury under the laws of the State of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ as the act and deed of said Proposer.

\_\_\_\_\_  
**NOTARY PUBLIC OR  
COMMISSIONER OF DEEDS**

**ATTACHMENT E**

**ACKNOWLEDGEMENT OF ADDENDA**

**ACKNOWLEDGEMENT OF ADDENDA**

**(Must be placed with Proposal)**

**Complete Part I or Part II as applicable**

**PART I**

ADDENDUM #1, DATED \_\_\_\_\_

ADDENDUM #2, DATED \_\_\_\_\_

ADDENDUM #3, DATED \_\_\_\_\_

ADDENDUM #4, DATED \_\_\_\_\_

ADDENDUM #5, DATED \_\_\_\_\_

ADDENDUM #6, DATED \_\_\_\_\_

ADDENDUM #7, DATED \_\_\_\_\_

LIST FURTHER ADDENDA AND DATES RECEIVED:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

---

**PART II**

\_\_\_\_\_ NO ADDENDUM WAS RECEIVED IN CONNECTION WITH THIS RFP

PROPOSER'S NAME: \_\_\_\_\_

AUTHORIZED REPRESENTATIVE SIGNATURE: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

DATE: \_\_\_\_\_

**ATTACHMENT F**

**SECTION 3 RESIDENT ECONOMIC OPPORTUNITY PLAN**

## NEW YORK CITY HOUSING AUTHORITY

### SECTION 3 & RESIDENT ECONOMIC OPPORTUNITY PLAN

**Reset**

NYCHA DEVELOPMENTS WHERE WORK IS TAKING PLACE:	CONTRACT/RFQ #:	<input type="checkbox"/> ORIGINAL AWARD OR <input type="checkbox"/> CONTRACT INCREASE/CHANGE ORDER/OTHER
TYPE OF WORK:	COMPANY NAME:	
BUSINESS ADDRESS:		
BUSINESS PHONE #:	EMAIL:	
FEDERAL TAX #:	PROPOSAL DATE:	

**A. PLAN OFFICER**

Name of Company official who will serve as the Plan Officer.

Name \_\_\_\_\_ Company Title \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

**B. LABOR HOURS PROJECTIONS**

What is the Total Estimated Labor Hours for this contract/project? \_\_\_\_\_

What is the Total Projected Labor Hours to be Worked by **Section 3 Workers** (min 25% of the total number of labor hours)? \_\_\_\_\_

What is the Total Projected Labor Hours to be Worked by **Targeted Section 3 Workers** (min 5% of the total number of labor hours)? \_\_\_\_\_

**C. WORKFORCE ANALYSIS**

Will any of the above estimated labor hours go towards new employees?  Yes  No

If yes, how many new employees do you anticipate hiring \_\_\_\_\_?

Please list in the table below the titles and the # of openings for all projected new employees.

JOB TITLE (EX: LABORERS, ASBESTOS HANDLERS, ADMINISTRATIVE ASSISTANT, TRAINEE, PLUMBER'S APPRENTICE)	# OF OPENINGS
<b>TOTAL PROJECTIONS</b>	<b>0</b>



**D. RESIDENT TRAINING**

**In accordance with the HUD Section 3 regulation, or NYCHA's employment and training goals, please outline your plan to organize skills-building training for Section 3 Workers.**

TYPE OF TRAINING	LENGTH OF TRAINING	CERTIFICATES OR LICENSES PROVIDED	PROJECTED # OF RESIDENT SLOTS
<b>TOTAL</b>			<b>0</b>

**E. OUTREACH & RECRUITMENT**

**What actions will your company take to meet your contract requirements? Check all that applies and elaborate as needed.**

- Coordinate with NYCHA’s Office of Resident Economic Empowerment & Sustainability (REES) to source qualified NYCHA residents.
- Interview qualified NYCHA residents who are graduates of the NYCHA Resident Training Academy (NRTA) and other REES partners.
- Work with property managers to post job opportunities.
- Engage in outreach efforts to connect NYCHA residents to economic opportunities.
- Provide training, internships, and/ or apprenticeship opportunities. If so, please describe: \_\_\_\_\_  
\_\_\_\_\_
- Coordinate with labor unions and apprenticeship programs to request or sponsor NYCHA residents? If so, which labor unions: \_\_\_\_\_
- Subcontract to Section 3 Business Concerns.
- Other tools to market opportunities: \_\_\_\_\_

**F. SECTION 3 BUSINESS CONCERNS – ACKNOWLEDGEMENT**

Contractor shall maintain records and documentation of efforts to subcontract to Section 3 Business Concerns.

**Actions required to award contract opportunities to qualified Section 3 Business Concerns**

Contractors will use the following methods to notify and contract with Section 3 Business Concerns when contracting opportunities exist:

- Contact business assistance agencies, minority contractor associations and community organizations to inform them of contracting opportunities and request assistance in identifying Section 3 businesses which may solicit bids or proposals for contracts for work in connection with Section 3 covered assistance.
- Advertise contracting opportunities by posting notices which provide general information about the work to be contracted and where to obtain additional information in the common area or other prominent areas of the housing development or developments owned and managed by the housing authority.
- Provide written notice to all known Section 3 business concerns of contracting opportunities. This notice should be in sufficient time to allow the Section 3 business concerns to respond to bid invitations or requests for proposal.
- Follow up with Section 3 business concerns that have expressed interest in the contracting opportunities by contacting them to provide additional information on contracting opportunities.
- Coordinate pre-bid meetings at which Section 3 business concerns could be informed of upcoming contracting and subcontracting opportunities.
- Carry out workshops on contracting procedures and specific contract opportunities so that Section 3 business concerns can take advantage of upcoming contracting opportunities, with such information being made available in language other than English, where appropriate.
- Advise Section 3 business concerns as to where they may seek assistance in overcoming limitations such as inability to obtain bonding, lines of credit, financing, or insurance.

NYCHA Section 3 Business Concerns Registry:

<http://www1.nyc.gov/site/nycha/business/section3-business-concern-information.page#findS3BC>



## CONTRACTORS RESPONSIBILITIES FOR SECTION 3 AND NYCHA'S EMPLOYMENT & TRAINING GOALS

If the contractor subcontracts portions of the work to another business(es), such business(es) are required to comply with Section 3 and direct employment and/or subcontracting opportunities to Section 3 workers and Section 3 business concerns. The same numerical goals apply to subcontractors as apply to the contractor. The contractor must include the total projected labor hours to be worked by its subcontractors, including projected labor hours to be worked by Section 3 workers, and projected labor hours to be worked by Targeted Section 3 workers. In addition, the contractor must notify NYCHA in writing about their subcontractors' efforts to comply with Section 3 or NYCHA's employment & training goals and submit any required documentation.

The contractor certifies to (a) comply with the Section 3 regulations and/or NYCHA's employment & training goals and (b) take all actions with respect thereto that are stated on this Plan. The Contractor's Plan Officer agrees to meet with NYCHA residents and staff and provide documentation and reports required by NYCHA to confirm compliance with Section 3 requirements and/or NYCHA's employment & training goals. This Plan shall be made part of the Contract that is referred to by the Contract/RFQ # stated above and failure to comply may be deemed a material breach of this Contract and may result in sanctions, termination of this contract and/or unsatisfactory performance evaluation, cautions reported, and affect award of future contracts.

Signature of Plan Officer: \_\_\_\_\_

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

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



## **SECTION 3 OVERVIEW**<sup>1</sup>

**LABOR HOURS WILL BE TRACKED THROUGHOUT THE LIFETIME OF THE CONTRACT.**

### **LABOR HOURS**

The number of paid hours worked by persons on a Section 3 project or by persons employed with funds that include public housing financial assistance.

### **SECTION 3 WORKER**

Any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

- The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
- The worker is employed by a Section 3 Business Concern.
- The workers is a YouthBuild participant.

### **TARGETED SECTION 3 WORKER**

A Targeted Section 3 Worker for public housing financial assistance means a Section 3 worker who is:

- A worker employed by a Section 3 Business Concern; or
- A worker who currently fits or when hired fit at least one of the following categories, as documented within the past 5 years:
  - A resident of public housing or Section-8 assisted housing;
  - A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance; or
  - A YouthBuild participant.

### **SECTION 3 MINIMUM NUMERICAL GOALS**

- Twenty-five (25) percent or more of the total number of labor hours worked by all workers employed with public housing financial assistance in the PHA's or other recipient's fiscal year are Section 3 workers.  
Section 3 Labor Hours/Total Labor Hours = 25% and
- Five (5) percent or more of the total number of labor hours worked by all workers employed with public housing financial assistance in the PHA's other recipient's fiscal year are targeted Section 3 workers.  
Targeted Section 3 Labor Hours/Total Labor Hours = 5%

### **SECTION 3 BUSINESS CONCERNS**

A Business Concerns meeting at least one of the following criteria documented within the last six-month period:

- It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently lives in Section 8-assisted housing, or;
- It is at least 51 percent owned and controlled by low- or very-low income persons, or;
- Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers

### **SECTION 3 EMPLOYMENT AND TRAINING PRIORITIES FOR PUBLIC HOUSING FINANCIAL ASSISTANCE (PHFA)<sup>2</sup>**

**Category 1:** Residents of the public housing projects for which the public housing financial assistance is expended;

**Category 2:** Residents of other public housing projects managed by the PHA that is providing assistance or for residents of Section 8-assisted housing managed by the PHA

**Category 3:** Participants in YouthBuild programs; and

**Category 4\*:** Low and very low-income persons residing within the metropolitan area (or non-metropolitan county) in which the assistance is expended.

\* For all category 4 hires, contractor must submit a NYCHA Self-Certification: Section 3 Worker/Targeted Section 3 Worker form. Contractors shall maintain a copy of this form for auditing review purposes.

### **SECTION 3 EMPLOYMENT AND TRAINING PRIORITIES FOR PERMANENT AFFORDABILITY COMMITMENT TOGETHER (PACT) PROJECTS<sup>3</sup>**

**Category 1:** To residents of public housing or Section 8 assisted housing;

**Category 2:** To Section 3 workers residing within the service area or the neighborhood of the project;

**Category 3:** Participants in YouthBuild programs; and

**Category 4:** To low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

### **JOB ORDER CONTRACTS / TASK ORDERS /AUTHORIZATIONS**

Section 3 Hiring Plans should be based on the projected full expenditure of the contract (or not-to-exceed amount).

<sup>1</sup>The Section 3 regulations can be found at the following link: eCFR — Code of Federal Regulations (<https://www.govinfo.gov/content/pkg/FR-2020-09-29/pdf/2020-19185.pdf>)

<sup>2</sup> Most contracts at NYCHA funded with HCDA are also funded with PHFA. If a contract is funded with HCDA but not one dollar of PHFA, the Employment and Training Priorities in §75.19 of Subpart C—Additional Provisions for Housing and Community Development Financial Assistance apply.

<sup>3</sup> If a PACT project transaction (using the RAD Program) receives HUD HCDA (e.g. HOME or CDGB), the Employment and Training Priorities in §75.19 of Subpart C—Additional Provisions for Housing and Community Development Financial Assistance apply.





**ATTACHMENT G**

**OTHER ECONOMIC OPPORTUNITIES (OEO) PLAN**

# NEW YORK CITY HOUSING AUTHORITY

Reset

## OTHER ECONOMIC OPPORTUNITIES (OEO) PLAN

**THE OEO PLAN MUST BE COMPLETED IN ADDITION TO THE SECTION 3 HIRING PLAN ONLY IF THERE IS NO COMMITMENT TO HIRE SECTION 3 RESIDENTS AND/OR SUBCONTRACT TO SECTION 3 BUSINESS CONCERNS.**

NYCHA DEVELOPMENTS WHERE WORK IS TAKING PLACE:	CONTRACT NO:
CONTRACT AMOUNT:	TYPE OF WORK:
COMPANY NAME:	BUSINESS ADDRESS:
BUSINESS PHONE #:	EMAIL:
FEDERAL TAX #:	PROPOSAL DATE:

**A. PLAN OFFICER:** Name of Principal Company official who will serve as the Section 3 Plan Officer.

Name \_\_\_\_\_ Company Title \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

**B. Justification for Inability to Meet Section 3 Hiring and/or Subcontracting Requirements**

Contractor must provide reasonable justification for its inability to hire Section 3 residents and/or subcontract with Section 3 Business Concerns, and its need, therefore, to provide other economic opportunities.

**Reason(s) for inability to hire Section 3 residents and/or subcontract with Section 3 Business Concerns:**

**C. ANALYSIS & PROJECTIONS**

In the spaces provided below, please outline your plan to provide other economic opportunities to Section 3 residents and/or Section 3 Business Concerns. Select from the options below. You are encouraged to select more than one option.

1. INDIRECT PARTICIPATION (HIRING SECTION 3 RESIDENTS IN POSITIONS OUTSIDE THE SECTION 3 COVERED CONTRACT)			
JOB TITLE	# OF PROJECTED RESIDENT HIRES	PROJECTED HOURLY WAGE	PROJECTED HOURS/WEEK

2. PAID INTERNSHIP PROGRAM (ALL INTERNS MUST BE PAID AT LEAST THE MINIMUM WAGE FOR AT LEAST 20HRS PER WEEK)		
INTERNSHIP TITLE	INTERNSHIP DESCRIPTION	PROJECTED # OF INTERNS

3. RESIDENT TRAINING PROGRAM				
TYPE OF TRAINING	LENGTH OF TRAINING	CERTIFICATES OR LICENSES PROVIDED	COST PER PERSON	PROJECTED # OF RESIDENTS TRAINED

4. PRE-APPRENTICESHIP TRAINING OPPORTUNITIES			
DESCRIPTION OF TRAINING/TITLE	PROJECTED # OF RESIDENTS TRAINED	PROJECTED HOURLY WAGE	PROJECTED HOURS/WEEK

5. SUPPORT TO SECTION 3 BUSINESS CONCERNS			
BUSINESS SUPPORT OPTIONS	DESCRIPTION OF SUPPORT	PROJECTED# OFS3BC COMPANIES TO RECEIVE SUPPORT	# OF HOURS/VALUE (IN \$)
TECHNICALSUPPORT/CONSULTING SESSIONS (MIN 80 HRS)			
PURCHASE OF SUPPLIES AND MATERIALS (MIN 3% OF CONTRACT AWARD)			
LOANS, SCHOLARSHIPS OR GRANTS (MIN 3% OF CONTRACT AWARD)			



**OUTREACH & RECRUITMENT ACTIVITIES**

What actions will your company take to recruit Section 3 residents and Section 3 Business Concerns for the Other Economic Opportunities listed?

- Do you commit to working with NYCHA’s Office of Resident Economic Empowerment & Sustainability (REES) to source Category 1 & 2 residents including graduates of the NRTA and other REES partners? \_
  
- Do you commit to working with property managers to post opportunities? \_
  
- What other tools will you use to market these opportunities? \_
  
- How else do you plan to inform the community and resident associations of these opportunities? \_
  
- What efforts will you make to support Section 3 Business Concerns? \_

**E. VENDOR CERTIFICATION**

The vendor certifies to comply with the Section 3 regulations. The vendor’s Section 3 Plan Officer agrees to meet with NYCHA residents and staff and provide documentation and reports required by NYCHA to confirm compliance with Section 3 requirements. Failure to comply may be deemed a material breach of this contract and may result in sanctions, termination of this contract and/or unsatisfactory performance evaluation, cautions reported, and affect award of future contracts.

Print Section 3 Plan Officer: \_

Signature of Section 3 Plan Officer: \_

Company Title: \_

Date: \_



**ATTACHMENT H**

**NYCHA M/WBE UTILIZATION PLAN**



# NYCHA M/WBE UTILIZATION PLAN

Solicitation # \_\_\_\_\_

**INSTRUCTIONS:** This Utilization Plan must contain a description of the supplies and/or services to be provided by each NYC Certified Minority and Women-owned Business Enterprises (M/WBE) under the contract. By submission of this Plan, the Bidder/Proposer/ Consultant/ Contractor commits to good faith efforts in the utilization of M/WBE subcontractors and suppliers as required by the MBE/WBE goals contained in the Solicitation/Contract. Making false representations or including information evidencing a lack of good faith as part of, or in conjunction with, the submission of a Utilization Plan is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids/proposal, and/or withholding of payments, non-responsibility determination and PASSPort cautions. Firms that do not perform commercially useful functions may not be counted toward M/WBE utilization. Attach additional sheets if necessary.

**NYC CERTIFIED M/WBE SUBCONTRACTOR/SUPPLIER INFORMATION:** The directory of New York City Certified M/WBEs can be viewed at SBS M/WBE directory site at [NYC Online Directory for Certified Businesses](#)

**The undersigned on behalf of the Bidder/Proposer/Consultant/Contractor (i) acknowledges having read the instructions above and requirements below, the terms and conditions of the applicable RFP/Solicitation/Agreement/Contract, (ii) understands the such party's responsibilities in connection with M/WBE utilization, and (iii) certifies that it will comply therewith.**

**Note:** This form must be signed by person signing the Form of Proposal/Proposal. All listed Subcontractors/Suppliers are subject to verification by NYCHA.

<b>PRIME CONTRACTOR INFORMATION</b>	<b>M/WBE Goals in Contract</b>
-------------------------------------	--------------------------------

Prime Contractor Name:	iSupplier Vendor ID:	MBE <b>15%</b>
------------------------	----------------------	----------------

Prime Contractor Address (Street, City, State and Zip Code):	WBE <b>15%</b>
--	----------------

Prime Contractor Telephone Number:	Contract Work Location/Region:
NYC MBE Certified: <input type="checkbox"/> Yes <input type="checkbox"/> No	Certification number:
NYC WBE Certified: <input type="checkbox"/> Yes <input type="checkbox"/> No	

Contract Description/Title:

**Requirements:**

- If a Prime is not an M/WBE, it must subcontract 30% of its contract to M/WBEs – 15%to a WBE(s) and 15% to an MBE(s)
- If a Prime is an MBE, it must subcontract 15% to a WBE(s)
- If a Prime is a WBE, it must subcontract 15% to an MBE(s)
- If a Prime is an M/WBE (both M and W), it must choose either M or W to count for itself and subcontract 15% to the other category

**Note:** Utilization requirements can be met via use of multiple vendors, provided the aggregate subcontractor utilization is 15% MBE and 15% WBE.

Authorized Signature:	Printed Name and Title:	Date:
-----------------------	-------------------------	-------

Email Address:	Telephone number:
----------------	-------------------

M/WBE Subcontractor/Supplier Name:	M/WBE Certification: <input type="checkbox"/> MBE <input type="checkbox"/> WBE (if firm is dual certified select one)
------------------------------------	---

Please identify the person you contacted:	Certification No.:	Telephone No.:
---	--------------------	----------------

Address:	Email Address:
----------	----------------

Description of work to be provided by subcontractor/supplier:

Total percentage of subcontracts/supplies/services  
%

M/WBE Subcontractor/Supplier Name:	M/WBE Certification: <input type="checkbox"/> MBE <input type="checkbox"/> WBE (if firm is dual certified select one)
------------------------------------	---

Please identify the person you contacted:	Certification No.:	Telephone No.:
---	--------------------	----------------

Address:	Email Address:
----------	----------------

Description of work to be provided by subcontractor/supplier:

Total percentage of subcontracts/supplies/services  
%

**IF UNABLE TO MEET THE MBE AND WBE GOALS SET FORTH IN THE SOLICITATION/CONTRACT, BIDDER/ PROPOSER/ CONSULTANT/ CONTRACTOR MUST SUBMIT A REQUEST FOR WAIVER. FAILURE TO COMPLETE THE UTILIZATION PLAN OR WAIVER FORM WILL DEEM YOUR BID NON-RESPONSIVE.**



<b>FOR NYCHA M/WBE USE ONLY</b>			
Print Name and Title:	<input type="checkbox"/> <b>Accepted</b>	<input type="checkbox"/> <b>Accepted as Noted</b>	<input type="checkbox"/> <b>Notice of Deficiency</b>
Authorized Signature:	<b>MBE %</b>	<b>WBE %</b>	Date Received:      Date Processed:
Comments:			



# ADDITIONAL SHEET

<b>Bidder/Contractor Name:</b>		<b>Solicitation #:</b>	
<b>M/WBE Subcontractor/Supplier Name:</b>		<b>M/WBE Certification: <input type="checkbox"/> MBE <input type="checkbox"/> WBE (if firm is dual certified select one)</b>	
Please identify the person you contacted:		Certification No.:	Please identify the person you contacted:
Address:		Email Address:	
Description of work to be provided by subcontractor/supplier:			
Total percentage of subcontracts/supplies/services			
<b>M/WBE Subcontractor/Supplier Name:</b>		<b>M/WBE Certification: <input type="checkbox"/> MBE <input type="checkbox"/> WBE (if firm is dual certified select one)</b>	
Please identify the person you contacted:		Certification No.:	Please identify the person you contacted:
Address:		Email Address:	
Description of work to be provided by subcontractor/supplier:			
Total percentage of subcontracts/supplies/services			
<b>M/WBE Subcontractor/Supplier Name:</b>		<b>M/WBE Certification: <input type="checkbox"/> MBE <input type="checkbox"/> WBE (if firm is dual certified select one)</b>	
Please identify the person you contacted:		Certification No.:	Please identify the person you contacted:
Address:		Email Address:	
Description of work to be provided by subcontractor/supplier:			
Total percentage of subcontracts/supplies/services			
<b>M/WBE Subcontractor/Supplier Name:</b>		<b>M/WBE Certification: <input type="checkbox"/> MBE <input type="checkbox"/> WBE (if firm is dual certified select one)</b>	
Please identify the person you contacted:		Certification No.:	Please identify the person you contacted:
Address:		Email Address:	
Description of work to be provided by subcontractor/supplier:			
Total percentage of subcontracts/supplies/services			
<b>M/WBE Subcontractor/Supplier Name:</b>		<b>M/WBE Certification: <input type="checkbox"/> MBE <input type="checkbox"/> WBE (if firm is dual certified select one)</b>	
Please identify the person you contacted:		Certification No.:	Please identify the person you contacted:
Address:		Email Address:	
Description of work to be provided by subcontractor/supplier:			
Total percentage of subcontracts/supplies/services			



**ATTACHMENT H-1**

**NYCHA APPLICATION FOR WAIVER OF M/WBE UTILIZATION GOAL**



# NYCHA APPLICATION FOR WAIVER/ PARTIAL WAIVER OF M/WBE UTILIZATION PLAN

## Section 1: Contractor Information

Prime Contractor's Name:	Solicitation number:	
Prime Contractor Address (Street, City, State and Zip Code):	E-Mail Address:	
	Prime Contractor Telephone Number: (    )    -	
iSupplier Vendor ID:	M/WBE Partial Waiver Requested	
	MBE %	WBE %
	%	%

## Section 2: M/WBE Waiver Request    Partial Waiver Request

Provide detailed explanation for waiver/ partial waiver request below. Attach additional pages if necessary.

## Section 3: Supporting Documentation

Provide the following documentation as evidence of your good faith efforts to meet the M/WBE goals set forth in the contract and in support of your waiver/ partial waiver application. If Attachment F is applicable, you must include the date on the space provided and provide copies of the notice of application receipt.

- Attachment A:** List of the general circulation, trade and M/WBE-oriented publications and dates of publications soliciting for certified M/WBE participation as a subcontractor/supplier and copies of such solicitation.
- Attachment B:** List of certified M/WBEs appearing in the NYC SBS M/WBE directory that were solicited for this contract. Provide proof of solicitations made to certified M/WBE's including corresponding dates along with responses from the certified M/WBEs. Describe specific reasons that responding certified M/WBEs were not selected.
- Attachment C:** Descriptions of the contract documents/ plans/ specifications made available to certified M/WBEs by the contractor when soliciting their participation and steps taken to structure the scope of work for the purpose of subcontracting with or obtaining supplies from certified M/WBEs.
- Attachment D:** Description of the negotiations between the contractor and certified M/WBEs for the purposes of complying with the M/WBE goals for this contract. Provide documentation supporting proof of negotiations and outcomes with certified M/WBEs.
- Attachment E:** Identify dates of any pre-bid, pre-award or other meetings attended by contractor, if any, scheduled by NYCHA.
- Attachment F:** Waiver pending NYC SBS Certification (Check here if subcontractors or suppliers of Contractor are not certified M/WBE, but an application for certification has been filed with NYC SBS. Date of such filing with NYC SBS:    . Must provide a copy of notice of application receipt issued by NYC SBS.
- Attachment G:** Other information deemed relevant to the waiver/ partial waiver request.

## Section 4: Signature and Contact Information

The Bidder/ Proposer /Consultant/ Contractor must submit the Application for Waiver/Partial Waiver of M/WBE Utilization Plan to the NYCHA point of contact listed in the solicitation documents no later than seven (7) calendar days prior to the date and time set for receipt of bids/proposals. In the event the Application for Waiver/Partial Waiver of M/WBE Utilization Plan is approved, the Bidder/ Proposer /Consultant/ Contractor must include the approved waiver in the submitted bid/ proposal documentation on the date set for receipt of bids/ proposals. For those Bidders/ Proposers/ Consultants/ Contractors submitting partial waivers, an M/WBE Utilization Plan committing to the portion of the requirements not covered by the waiver must also be submitted with the bid/ proposal package on the date set for receipt of bids/ proposals.

By signing and submitting this form, the Bidder/ Proposer/ Consultant/ Contractor certifies that a good faith effort has been made to meet M/WBE goals pursuant to the M/WBE requirements set forth under the contract. Making false representations or including information evidencing a lack of good faith is prohibited by law and may result in penalties including, but not limited to, termination of a contract for cause, loss of eligibility to submit future bids/proposals, and/or withholding of payments, non-responsibility determination and PASSPort cautions.

**The undersigned on behalf of the Bidder/ Proposer/ Consultant/ Contractor (i) acknowledges having read the instructions above and requirements below, the terms and conditions of the applicable RFP/Solicitation/Agreement/Contract, (ii) understands the such party's responsibilities in connection with M/WBE utilization, and (iii) certifies that it will comply therewith.**

**Note:** This form must be signed by person signing the Form of Proposal/Proposal. All listed Subcontractors/Suppliers are subject to verification by NYCHA.



Authorized Signature:	Date:
Print Name and Title:	

FOR NYCHA M/WBE USE ONLY	
NYCHA M/WBE Authorized Signature:	Print Name and Title:
Determination: <input type="checkbox"/> M/WBE waiver granted <input type="checkbox"/> M/WBE waiver denied	<input type="checkbox"/> M/WBE partial waiver granted <input type="checkbox"/> M/WBE partial waiver denied
Determination comments:	
Date of Determination:	

**ATTACHMENT I**

**CERTIFICATION OF PAYMENTS TO INFLUENCE FEDERAL TRANSACTIONS**

# Certification of Payments to Influence Federal Transactions

U.S. Department of Housing  
and Urban Development  
Office of Public and Indian Housing

Applicant Name

---

Program/Activity Receiving Federal Grant Funding

---

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

---

Name of Authorized Official

Title

Signature

Date (mm/dd/yyyy)

**ATTACHMENT J**

**CERTIFICATION REGARDING DEBARMENT AND SUSPENSION**

# Certification Regarding Debarment and Suspension

## Certification A: Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief that its principals;

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal debarment or agency;

b. Have not within a three-year period preceding this proposal, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

### Instructions for Certification (A)

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of these regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines this eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph (6) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

**Certification B: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**Instructions for Certification (B)**

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of these regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph (5) of these instructions, if a participant in a lower covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies including suspension and/or debarment.

Applicant		Date
Signature of Authorized Certifying Official		Title



**ATTACHMENT K**

**BIDDER/PROPOSER DEBARMENT CERTIFICATION FORM**

**BIDDER/PROPOSER DEBARMENT CERTIFICATION FORM**

The Bidder/Proposer (collectively “**Bidder**”) certifies that, neither the Bidder nor any owner, partner, director, officer, or principal of the Bidder, nor any person in a position with management responsibility or responsibility for the administration of federal, state, or local funds:

(a) Is presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from covered transactions by any federal or state department/agency, which includes, but is not limited to, the Federal Excluded Parties List, the HUD Limited Denial of Participation List, the New York State Department of Labor’s Ineligibility List, and the New York City School Construction Authority’s Ineligibility List;

(b) Has within a three-year period preceding this Certification been convicted of or had a civil judgment rendered against it for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract (federal, state, or local); violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, unlawful gratuities, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Is presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (b) above; or

(d) Has within a three-year period preceding this certification had one or more public transactions or contracts (federal, state, or local) terminated for cause or default.

The Bidder (check appropriate box and provide requested information):

- (i)  is registered with Dun & Bradstreet (“**D&B**”) and has been assigned the following DUNS Number: \_\_\_\_\_; or
- (ii)  is not registered with D&B.

The Bidder further certifies that it shall not knowingly enter into any transaction with any subcontractor, subconsultant, material supplier, or vendor who is debarred, suspended, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department/agency.

If the Bidder is unable to sign this Certification, they shall attach a written and signed explanation hereto as part of their bid/proposal.

I acknowledge that it is a criminal offense to make a false statement or misrepresentation in this Certification. If I do so, I may be subject to criminal prosecution, and such misrepresentation may be, among other things, considered by the New York City Housing Authority in connection with the Bidder’s responsibility status on future procurements with the agency.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

By \_\_\_\_\_  
Authorized Signature for Bidder/Proposer

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

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

**ATTACHMENT L**

**SUBCONTRACTOR DEBARMENT CERTIFICATION FORM**

**SUBCONTRACTOR DEBARMENT CERTIFICATION FORM**

The subcontractor/subconsultant/vendor/supplier identified below (collectively “**Subcontractor**”) certifies that, neither the Subcontractor nor any owner, partner, director, officer, or principal of the Subcontractor, nor any person in a position with management responsibility or responsibility for the administration of federal, state, or local funds:

- (a) Is presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from covered transactions by any federal or state department/agency, which includes, but is not limited to, the Federal Excluded Parties List, the HUD Limited Denial of Participation List, the New York State Department of Labor’s Ineligibility List, and the New York City School Construction Authority’s Ineligibility List;
- (b) Has within a three-year period preceding this Certification been convicted of or had a civil judgment rendered against it for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract (federal, state, or local); violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, unlawful gratuities, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Is presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (b) above; or
- (d) Has within a three-year period preceding this certification had one or more public transactions or contracts (federal, state, or local) terminated for cause or default.

The Subcontractor (check appropriate box and provide requested information):

- (i)  is registered with Dun & Bradstreet (“**D&B**”) and has been assigned the following DUNS Number: \_\_\_\_\_; or
- (ii)  is not registered with D&B.

The Subcontractor further certifies that it shall not knowingly enter into any transaction with any subcontractor, subconsultant, material supplier, or vendor who is debarred, suspended, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department/agency.

If the Subcontractor is unable to sign this Certification, they shall attach a written and signed explanation hereto and provide same to the entity bidding or proposing on the New York City Housing Authority (“**NYCHA**”) procurement, or already under contract with NYCHA.

I acknowledge that it is a criminal offense to make a false statement or misrepresentation in this Certification. If I do so, I may be subject to criminal prosecution, and such misrepresentation may be, among other things, considered by NYCHA in connection with any future bid by the Subcontractor on future procurements with the agency.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

By \_\_\_\_\_  
Authorized Signature for Subcontractor

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

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

**EXHIBIT 1**

**NYCHA GENERAL TERMS AND CONDITIONS**

# NYCHA GENERAL TERMS AND CONDITIONS

## Table of Contents

1.	GENERAL WARRANTY AS TO PERFORMANCE.....	1
2.	NON-DISCRIMINATION .....	1
3.	EMPLOYMENT, TRAINING, AND CONTRACTING OPPORTUNITIES FOR LOW-INCOME PERSONS, SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968.....	3
4.	COVENANT AGAINST FEES FOR SOLICITATION .....	4
5.	WARRANTY OF NO DISABILITY; WARRANTY OF REQUIRED APPROVALS .....	4
6.	OFFICIALS NOT TO BENEFIT .....	4
7.	INTEREST BY MEMBERS OF LOCAL AUTHORITY AND LOCAL GOVERNING BODY .....	5
8.	COMPLIANCE WITH LAWS .....	5
9.	COMPLIANCE WITH ENVIRONMENTAL LAWS AND ENERGY STANDARDS .....	6
10.	INSURANCE REQUIREMENTS.....	6
11.	INDEMNIFICATION.....	9
12.	DEFENSE AND SETTLEMENT OF MATTERS TO WHICH INDEMNITY PROVISIONS APPLY .....	9
13.	FINAL PAYMENT AND RELEASE.....	10
14.	RIGHT TO AUDIT; MAINTENANCE OF BOOKS AND RECORDS.....	10
15.	OWNERSHIP OF WORK .....	10
16.	PROMOTIONAL LITERATURE .....	11
17.	CONFIDENTIALITY .....	11
18.	ASSIGNMENT; DELEGATION AND SUBCONTRACTING.....	16
19.	SUSPENSION OF SERVICES.....	17
20.	TERMINATION OF AGREEMENT FOR CONVENIENCE .....	17
21.	TERMINATION OF AGREEMENT OTHER THAN FOR CONVENIENCE .....	17
22.	INVESTIGATIONS; CANCELLATION AND DISQUALIFICATION UNDER CERTAIN CIRCUMSTANCES.....	18
23.	CHANGED CIRCUMSTANCES.....	20
24.	DISPUTES .....	20
25.	NEW YORK LAW.....	20
26.	LIMITATION OF ACTIONS; WAIVER OF TRIAL BY JURY.....	21
27.	DAMAGES .....	21
28.	SEVERABILITY .....	21
29.	MODIFICATION; AMENDMENT OR SUPPLEMENT .....	21
30.	ARM’S-LENGTH TRANSACTION -- WAIVER OF CONTRA PROFERENTEM RULE.....	22
31.	NO BRIBE, KICKBACK OR OTHER INDUCEMENT.....	22
32.	PROHIBITION ON USE OF TROPICAL HARDWOODS.....	22
33.	NYCHA’S RIGHT TO WITHHOLD MONEY OUT OF PAYMENTS.....	22

34.	CONTRACTING WITH MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES .....	22
35.	CHANGES .....	23
36.	ORGANIZATIONAL CONFLICTS OF INTEREST .....	23
37.	CONSULTANT’S STATUS.....	24
38.	OTHER CONSULTANTS .....	24
39.	LIENS .....	24
40.	PROCUREMENT OF RECOVERED MATERIALS .....	24
41.	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS .....	24
42.	DEBARMENT AND SUSPENSION .....	28
43.	BYRD ANTI-LOBBYING AMENDMENT .....	28
44.	HUD REPORTING REQUIREMENTS.....	29
45.	PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT	29
46.	DOMESTIC PREFERENCES FOR PROCUREMENTS.....	29
47.	INTELLECTUAL PROPERTY INFRINGEMENT.....	30

## **1. GENERAL WARRANTY AS TO PERFORMANCE**

Consultant shall use its best efforts and professional skills in accordance with applicable professional standards and with the terms of the Agreement in order to perform and complete the Services.

## **2. NON-DISCRIMINATION**

- (a) In connection with performance of the Services, Consultant shall not discriminate against employees or applicants for employment because of age, alienage or citizenship status, color, creed, physical or mental disability (in regard to any position for which the employee or applicant for employment is qualified), gender (including sexual harassment), marital or familial status, military service, national origin, prior arrest record, race, religion, sex, sexual orientation, gender identity, and status as a victim of domestic violence or for any other unlawful reason.
- (b) Consultant shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their age, alienage or citizenship status, color, creed, physical or mental disability (in regard to any position for which the employee or applicant for employment is qualified), gender (including sexual harassment), marital or familial status, military service, national origin, prior arrest record, race, religion, sex, sexual orientation, gender identity, and status as a victim of domestic violence or for any other unlawful reason. Such action shall include, but not be limited to, (i) employment, (ii) upgrading, (iii) promotion, award of tenure, demotion, (iv) transfer, (v) recruitment or recruitment advertising, (vi) layoff or termination, right of return from layoff and rehiring (vii) rates of pay or other forms of compensation and changes in compensation, (viii) selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training, (ix) job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists, (x) leaves of absence, sick leave, or any other leave, (xi) fringe benefits available by virtue of employment (xii) activities sponsored by the Consultant including social or recreational programs, and (xiii) any other term, condition, or privilege of employment.
- (c) Consultant shall, in all solicitations or advertisements for employees placed by or on behalf of Consultant, state that all qualified applicants will receive consideration for employment without regard to age, alienage or citizenship status, color, creed, physical or mental disability (in regard to any position for which the employee or applicant for employment is qualified), gender (including sexual harassment), marital or familial status, military service, national origin, prior arrest record, race, religion, sex, sexual orientation, gender identity, and status as a victim of domestic violence or for any other unlawful reason. Consultant shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by NYCHA advising the labor union or workers' representative of Consultant's commitments under this Section 2 and section 503 of the Rehabilitation Act of 1973, as amended, and post copies of the notice in conspicuous places available to employees and applicants for employment.

The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of Federal Contract Compliance Programs (such form(s) can be found at <https://www.dol.gov/agencies/ofccp/posters> (last visited August 11, 2022)). Such notices shall state the rights of applicants and employees as well as the Consultant's



obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities.

The Consultant must ensure that applicants or employees with disabilities are provided the notice in a form that is accessible and understandable to the individual applicant or employee (e.g., providing Braille or large print versions of the notice, or posting a copy of the notice at a lower height for easy viewing by a person using a wheelchair). With respect to employees who do not work at a physical location of the Consultant, Consultant will satisfy its posting obligations by posting such notices in an electronic format, provided that the Consultant provides computers, or access to computers, that can access the electronic posting to such employees, or the Consultant has actual knowledge that such employees otherwise are able to access the electronically posted notices. Electronic notices for employees must be posted in a conspicuous location and format on the company's intranet or sent by electronic mail to employees. An electronic posting must be used by the Consultant to notify job applicants of their rights if the Consultant utilizes an electronic application process. Such electronic applicant notice must be conspicuously stored with, or as part of, the electronic application.

- (d) Consultant shall not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Consultant's legal duty to furnish information.
- (e) Consultant shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (f) Consultant shall furnish all information and reports required by Executive Order 11246, as amended and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto. Consultant shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (g) In the event of a determination that Consultant is not in compliance with this Section 2 or any rule, regulation, or order of the Secretary of Labor, the Agreement may be canceled, terminated, or suspended in whole or in part, and Consultant may be declared ineligible for further government contracts, or federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against Consultant as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
- (h) Consultant shall include the terms and conditions of this Section 2 [i.e., provisions equivalent to those set forth in paragraphs (a) through (g) of this Section] in every subcontract or purchase order, and cause its Subcontractors (as hereinafter defined) to include the same in all of their subcontracts, at every tier, unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, or orders of the Secretary issued pursuant to section 503 of the Rehabilitation

Act of 1973, as amended, so that these terms and conditions will be binding upon each of its subconsultants, subcontractors or vendors (“**Subcontractor(s)**”) and all subcontractors or subconsultants of the Subcontractors at all tiers performing Services or supplying materials or supplies under the Agreement. Consultant shall take such action with respect to any subcontract or purchase order as the Secretary of the Department of Housing and Urban Development (“**HUD**”), the Secretary of Labor, or the Director of the Office of Federal Contract Compliance Programs may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if Consultant becomes involved in, or is threatened with, litigation with a Subcontractor as a result of such direction, Consultant may request the United States to enter into the litigation to protect the interests of the United States.

**3. EMPLOYMENT, TRAINING, AND CONTRACTING OPPORTUNITIES FOR LOW-INCOME PERSONS, SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968**

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (“**Section 3**”) ensures that employment and other economic opportunities generated by HUD financial assistance shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing. Consultant agrees to comply with the HUD regulations in 24 Code of Federal Regulations (“**CFR**”) part 75 that implement Section 3 (“**24 CFR 75**”), as applicable to the Services. Specifically, Consultant shall make, and cause its Subcontractors to make, best efforts to provide employment and training opportunities generated by the Services to Section 3 workers and to award contracts and subcontracts to business concerns that provide economic opportunities to Section 3 workers, and shall include contract language requiring compliance with Section 3 in any Subcontracts used to perform the Services. During the Term, Consultant shall report to NYCHA the number of paid hours Section 3 worker(s) spent performing Services pursuant to the Agreement in accordance with NYCHA’s reporting requirements. The Consultant acknowledges and agrees that the Section 3 regulations in 24 CFR part 75: (a) replace, in their entirety, the Section 3 regulations formerly set forth in 24 CFR 135 and therefore in the event of any conflict between the regulations and requirements set forth in 24 CFR 75 and 24 CFR 135 the regulations and requirements set forth in 24 CFR 75 shall prevail, notwithstanding any reference to 24 CFR 135 that may be set forth in the Agreement; and (b) are incorporated by reference into the Agreement and the obligations and requirements in 24 CFR 75 shall be fully, and contractually, binding on the Consultant notwithstanding the funding source for payments made to the Consultant pursuant to the Agreement. For the avoidance of doubt:

- (a) if NYCHA pays Consultant with funds which are not subject to 24 CFR 75, then regardless of the inapplicability by statute of Section 3 to the Agreement and Services, the Consultant shall have the contractual obligation under the Agreement to comply with the requirements of 24 CFR 75 as if 24 CFR 75 applied to the Agreement and Services; and
- (b) if the Services performed under the Agreement are, or include, professional Services which may or may not require an advanced degree or professional license (collectively, “**Professional Services**”), then the Consultant is contractually obligated, regardless of the applicability of the Section 3 regulations to the Services by statute, to:
  - (i) report to NYCHA the number of paid hours Section 3 worker(s) spent performing Services pursuant to the Agreement in accordance with NYCHA’s reporting requirements, including, but not limited to, paid hours of Professional Services, and

- (ii) if the Consultant does not hire Section 3 worker(s) to perform the Professional Services under the Agreement, the Consultant shall submit to NYCHA with its proposal submission or as otherwise directed by NYCHA, its Section 3 Other Economic Opportunities Plan (or such other NYCHA reporting form) (“**OEO Plan**”) for NYCHA’s review and approval. Consultant shall comply with the approved OEO Plan, as such may be modified and revised by Consultant at the direction and approval of NYCHA’s Resident Economic Empowerment and Sustainability Department (or such other NYCHA department charged with the administration and oversight of the OEO Plan). Such final NYCHA approved OEO Plan shall be incorporated by reference into the Agreement and made a part thereof without further action on the part of the Parties.

#### **4. COVENANT AGAINST FEES FOR SOLICITATION**

Consultant warrants that it has not employed any third party to solicit or secure the Agreement based upon any agreement calling for any payment for such services, including, without limitation, the payment of a commission, percentage, credit or contingent fee (collectively referred to as a “**Commission**”). Breach of this warranty gives NYCHA the right to immediately terminate the Agreement or, at its discretion, to deduct from Consultant’s compensation the amount of such Commission.

#### **5. WARRANTY OF NO DISABILITY; WARRANTY OF REQUIRED APPROVALS**

- (a) Consultant represents and warrants that it is not now under any disability, by reason of (i) contractual restriction on its employment, (ii) custom or practice, (iii) a filing by (or against) Consultant for protection under the United States Bankruptcy Code, or (iv) any other legal or financial obligation imposed on or incurred by Consultant, which would prevent it from the full, faithful and timely completion of the Services. Consultant covenants that, during the Term it shall not incur any such disability, nor permit such disability to exist.
- (b) Consultant represents and warrants that: (i) it has obtained any and all permits, registrations, licenses, and any other third party consents and approvals that are necessary for Consultant to perform the Services (collectively, “**Approvals**”) and all such Approvals are currently in full force and effect and shall be in full force and effect for as long as Consultant has any obligation to perform the Services; and (ii) Consultant’s performance of the Services and/or the creation and delivery of any product in connection therewith will not infringe upon, violate, or breach any law, regulation, third party rights (including, without limitation, any third party intellectual property or proprietary rights) or any third party agreement.

#### **6. OFFICIALS NOT TO BENEFIT**

No member of, or delegate to, the Congress of the United States or the New York State or City government, or Member of NYCHA (as defined below), shall be permitted by Consultant to any share or part of the Agreement or any benefit that may arise from the Agreement, but this provision shall not be construed to extend to the Agreement if made with a corporation for its general benefit. For purposes of these NYCHA General Terms and Conditions, the term “**Member(s)**” shall refer to the individuals appointed by the mayor of the City of New York (the “**City**”) to NYCHA pursuant to Section 402(3) of the Public Housing Law.

## **7. INTEREST BY MEMBERS OF LOCAL AUTHORITY AND LOCAL GOVERNING BODY**

No Member, officer or employee of NYCHA, no member of the governing body of the jurisdiction in which NYCHA is situated and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Services covered by the Agreement may, during his or her tenure and for one year after such tenure, have any interest, direct or indirect, in the Agreement or the proceeds thereof.

## **8. COMPLIANCE WITH LAWS**

(a) Consultant represents and warrants that: (a) it is, and shall remain during the Term, in compliance with all applicable laws, ordinances and codes of the federal, state and local governments which are directly or indirectly related to the Services, and (b) it shall perform the Services in compliance with all rules, regulations and orders of any governmental authority or agency having jurisdiction over, or interest in, NYCHA or the Agreement.

### **(b) Subcontractor Compliance**

- i. The Consultant represents and warrants that its Subcontractors, and all subcontractors or sub-consultants of the Subcontractors at all tiers performing Services or supplying materials or supplies under the Agreement, including, but not limited to, their employees, consultants, sub-consultants, suppliers (including, but not limited to, suppliers of materials, goods, supplies, equipment or otherwise), agents, and volunteers (such employees, consultants, sub-consultants, suppliers, agents, and volunteers hereinafter referred to as the “**Party(ies) Performing Services**”) (i) are, and shall remain for so long as this Agreement is in effect, in compliance with all applicable laws, ordinances and codes of the federal, state and local governments which are directly or indirectly related to the Services, including, but not limited to, licensing and compliance requirements, and (ii) shall perform the Services in compliance with all applicable laws, rules, regulations, ordinances and codes of the federal, state and local governments or agency having jurisdiction over, or interest in, NYCHA or the Agreement, including, but not limited to all provisions of New York State Labor Law and Public Health Law. The Consultant is fully responsible for all Subcontractors’ of all tiers, and the Parties Performing Services’ compliance with the terms of this Agreement and the acts or omissions of all Subcontractors of all tiers and the acts or omissions of the Parties Performing Services.
- b. The Consultant shall cause all Subcontractors of all tiers and all of the Parties Performing Services to comply with, all applicable laws, rules, regulations, ordinances, and codes of the federal, state and local governments, or any agency having jurisdiction over, or interest in, NYCHA or the Agreement, including, but not limited to, all licensing and compliance requirements related and applicable to the Agreement and the performance of the Services and all provisions of New York State law including, but not limited to, the Labor Law and the Public Health Law.
- c. NYCHA and the Consultant are the only parties to the Agreement. No subcontract and no approval of any Subcontractor of any tier, or Party Performing Services, shall create or be deemed to create any rights in favor of such Subcontractor or Party Performing Service against NYCHA or create any contractual relationship between NYCHA and any Subcontractor or any of the Parties Performing Services. The Consultant shall ensure and cause all Subcontractors of any tier and Parties Performing Services under the Agreement, to fully (i) perform the Services in strict accordance with the requirements of the Agreement, and (ii) abide by all terms and conditions of the Agreement. The Consultant shall be responsible and

liable for any breach, default, or failure on the part of a Subcontractor of any tier and/or any Parties Performing Services to comply with the foregoing requirements.

## 9. COMPLIANCE WITH ENVIRONMENTAL LAWS AND ENERGY STANDARDS

Consultant agrees to comply with: (a) all applicable standards, orders or requirements of the Clean Air Act, as amended (42 U.S.C. Section 7602) [formerly 42 U.S.C. Section 1857(h)], the Clean Water Act, as amended (33 U.S.C. Section 1368), Executive Order 11738 and all implementing regulations promulgated by the Environmental Protection Agency (40 CFR Part 15); and (b) all mandatory standards and policies relating to energy efficiency contained in the New York State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163), and any other applicable laws or amendments thereto.

## 10. INSURANCE REQUIREMENTS

The Consultant shall obtain and maintain throughout the Term of the Agreement the types and amounts of insurance outlined in Rider 1 hereto compliant with the terms and conditions therein as well as each of the following terms and conditions:

- (a) **No Services or Scope of Work Excluded** - Insurance policies shall not exclude claims arising out of or in any way related to the Services, scope of work or operations contemplated within the scope of this Agreement whether or not such Services, scope of work, or operations are performed directly by the Consultant, its Subcontractors, the subcontractors or sub-consultants of the Subcontractors at all tiers performing Services or supplying materials or supplies under the Agreement, or by any Parties Performing Services.
- (b) **Severability of Interests - No Employer Exclusions** - Liability insurance policies required by this Agreement must not exclude coverage to NYCHA and NYCHA's Related Parties (as hereinafter defined) as additional insureds for any claim, which alleges or in any way involves the injury to the Consultant, the Consultant's employees or the owners or employees of any Subcontractor, the Subcontractor's subcontractors or sub-consultants at all tiers performing Services or supplying materials or supplies under the Agreement, or any Party Performing Services which may occur in the course of performing Services pursuant to the Agreement. Liability insurance policies must include an industry standard "Severability of Interests" or "Separation of Insureds" clauses providing that no policy exclusion, term or condition applicable to the Consultant shall affect the availability of coverage to any additional insured. "NYCHA's Related Parties" shall include any entity or individual for whom, pursuant to contract or law, NYCHA has an obligation to defend, indemnify and/or hold harmless from "Indemnified Losses" (as defined in Section 11(b) below) arising out of the Services including, without limitation, NYCHA's agents, Members (as defined in Section 6 above), employees, successors, assigns, business and government affiliates and partners.
- (c) **Change in Risk** - NYCHA reserves the right to revise the types and amounts of insurance required due to any material change in the services, scope of work or operations which may increase the potential liability of any party, as determined at NYCHA's sole discretion.
- (d) **Compliance** - Certificates of Insurance and supplementary documentation demonstrating compliance with these requirements shall be submitted (i) upon execution of this Agreement, (ii) upon each required insurance policy renewal, and (iii) upon demand of NYCHA. Consultant shall deliver to NYCHA or its designee, or cause

its licensed or certified insurance professionals to deliver to NYCHA or its designee, Certificates of Insurance and supplementary documentation certifying compliance with any and all requirements as and when required by NYCHA, including via online submission and certification (including E-signature) of such documents or via email delivery. Insurance documentation sent through the mail will not be considered received or accepted by NYCHA unless delivered in accordance with the specific directions of NYCHA or its designee.

Requirements may only be waived by NYCHA's Risk Management Department, General Counsel, or Office of the Chair.

However, NYCHA will grant the following pre-defined conditional waivers:

1. **Auto Liability Insurance Waiver** – will be granted provided Consultant covenants in writing that no vehicles will be used by Consultant, Subcontractor, any of the Subcontractor's subcontractors or sub-consultants at all tiers performing Services or supplying materials or supplies under the Agreement, or any Party Performing Services on or from any NYCHA property during the Term of this Agreement.
2. **Workers Compensation Waiver** – if Consultant (i) is a sole proprietor, (ii) has no employees or staff of any type, (iii) is legally exempt from New York State Workers Compensation Law, and (iv) only works with contractors insured for Workers Compensation in compliance with New York State law, then NYCHA will accept New York State's CE-200 form, or any successor and equivalent form authorized by the State of New York, in lieu of the required Workers Compensation insurance.

**(e) Insurance Compliance Failure** - Failure to maintain required insurance coverage for the duration of the Agreement and any extension thereof, shall be deemed a breach of the Agreement. In the event of failure to maintain the required insurance, and in addition to any other rights and remedies available under the Agreement, at law or in equity, NYCHA reserves the right at its sole discretion to withhold payment, stop Services or terminate this Agreement.

**(f) Insurers** – All insurance must be underwritten by insurance companies that are licensed, admitted, approved, or otherwise legally permitted to transact insurance business in the state of New York and which have a minimum AM Best policyholder rating of A- or greater and a minimum AM Best financial size category of VII or greater. Insurance may alternately be underwritten by a Lloyd's of London syndicate or surplus lines insurers authorized to underwrite business in the State of New York.

**(g) High Retention or Deductible / Self-Insurance & Alternative Risk Financing** – Insurance policies with retentions or deductibles in excess of fifty thousand dollars (\$50,000) or insurance programs including self-insurance, captive insurance, participation in risk purchasing groups or other alternative risk financing mechanisms must be disclosed to and approved by NYCHA's Risk Management Department prior to being utilized to satisfy the requirements of this Agreement.

**(h) Notice of Cancellation** – Where commercially available, each insurance policy must be endorsed to provide that such policy may not be canceled without at least thirty (30) days' prior written notice to NYCHA for any reason excepting non-payment of premium for which policy must provide ten (10) days prior written notice of cancellation.

- (i) **Types of Insurance** – Insurance requirements may be satisfied through any combination of primary and excess insurance which is otherwise compliant with these requirements.
- (j) Blanket insurance policies covering the Services along with other locations and operations of the Consultant are permissible, provided such policies are otherwise compliant with these requirements.
- (k) **Claims-Made Insurance** – If the Consultant maintains required insurance on a Claims-Made basis, meaning any insurance triggered by the date of the filing of a claim as opposed to the date of the occurrence of a covered loss, then such insurance coverage must remain in effect throughout the statute of limitations applicable to any claims which may be made under that policy, whether or not compliance is monitored by NYCHA.
- (l) **Minimum Limits** – The limits of insurance required herein are the minimum required by NYCHA and does not cap or limit Consultant’s liability under this Agreement. Such minimum limits do not cap or limit NYCHA’s right to seek any available coverage or protection under the insurance policies of the Consultant, whether or not required herein.
- (m) **NYCHA’s Insurance** – Consultant acknowledges that NYCHA may maintain insurance policies or self-insurance funds which address NYCHA’s liability and other risk exposure with respect to the Services. Consultant acknowledges that neither Consultant, Subcontractor, the Subcontractor’s subcontractors or sub-consultants at all tiers performing Services or supplying materials or supplies under the Agreement, or Parties Performing Services, nor the insurers thereof have any right to or expectation of insurance coverage, protection or proceeds from NYCHA’s insurance policies or self-insurance funds.
- (n) **Subcontractors** – Consultant shall require by contract, and shall enforce the requirement that Subcontractors obtain and maintain no less than one million (\$1,000,000) per occurrence or accident in General Liability and Auto Liability insurance limits, as well as statutorily required Workers Compensation insurance policies, subject to all of the same terms and conditions and providing equivalent protection to NYCHA as required of Consultant by this Agreement, with such insurance being applicable to any incident or occurrence arising from the acts or omissions of the Subcontractor with respect to the Services or this Agreement.

If applicable per (n)1 and 2 below, Consultant shall require by contract, and shall enforce the requirement that Subcontractor obtain and maintain the following additional types and amounts of insurance:

1. Professional Liability Insurance of no less than one million dollars (\$1,000,000) per claim applicable to licensed or specialized professional services of design, architecture or engineering or legal, financial or medical services being provided by the Subcontractor.
2. Pollution Legal Liability Insurance of no less than one million dollars (\$1,000,000) per claim or incident for any treatment, handling, transport or abatement of hazardous material performed by the Subcontractor. This insurance must name NYCHA as an additional insured.

It shall be Consultant’s sole responsibility to monitor and enforce the compliance of Subcontractors with the provisions of this section. Consultant shall provide to NYCHA evidence and documentation of such compliance as and when requested by NYCHA.

## **11. INDEMNIFICATION**

- (a) **Indemnification.** To the fullest extent permitted by law, the Consultant hereby agrees to indemnify, defend (with counsel reasonably acceptable to NYCHA), and hold NYCHA, and NYCHA's Related Parties harmless from and against all "**Indemnified Losses**" (as defined below) that may arise against NYCHA and NYCHA's Related Parties arising out of or in any way related to the acts or omissions of the Consultant, or the acts or omissions of its employees, agents, licensees, invitees, contractors, Subcontractors, any of Subcontractor's subcontractors or sub-consultants at all tiers performing Services or supplying materials or supplies under the Agreement, any Parties Performing Services, or any other entity or person involved in providing the Services under the Agreement except to the extent, and only to the extent, such losses arise from the acts or omissions of NYCHA.
- (b) "**Indemnified Losses**" are defined as damages, losses, liabilities, costs, expenses, obligations, penalties, fines, impositions, fees, interest, attorneys' fees (including any attorneys' fees incurred in enforcing this indemnity), consultants' fees, expert fees, levies, a decline in value, lien removal or bonding costs, claims, litigation, demands, defenses, judgments, suits, proceedings, disbursements, and settlements, of any kind and nature whatsoever.
- (c) The Consultant hereby covenants and agrees that the obligations, indemnities and liabilities of the Consultant in this Section shall:
1. incept upon the Effective Date of this Agreement and shall survive the expiration, revocation, termination or expiration of this Agreement;
  2. be triggered by notice to Consultant by NYCHA, which shall include a summary of the details of the Indemnified Loss as known to NYCHA at the time of notice and NYCHA's direction as to how Consultant shall indemnify, defend or hold NYCHA harmless including, without limitation the reimbursement of costs, the assumption of legal defense and/or the extension of insurance coverage. The Consultant shall respond within ten (10) business days affirming the Consultant's agreement therewith or advising the NYCHA of any dispute or reservation of rights with respect to the Indemnified Loss. If NYCHA seeks legal defense from the Consultant or its insurer under this Agreement, NYCHA shall provide all reasonable cooperation requested by the Consultant, its insurer or either of their respective attorneys;
  3. not be limited in any way to the availability or applicability of insurance available to the Consultant or Subcontractor, whether or not such insurance is required under this Agreement; and
  4. apply in addition to any other indemnification provided herein.

## **12. DEFENSE AND SETTLEMENT OF MATTERS TO WHICH INDEMNITY PROVISIONS APPLY**

NYCHA agrees to notify Consultant of any action or claim with respect to which the indemnity provisions of the prior Section may apply. Consultant shall have the obligation to conduct the defense and settlement of such actions or claims at NYCHA's option; provided, however, that (a) if there is a reasonable probability that any action or claim for which Consultant is to provide indemnity to NYCHA hereunder may adversely affect NYCHA or any of its Members, officers, employees or agents (other than as a result of money damages or other money payments), NYCHA then has the exclusive right to defend, compromise or settle such action or claim; and (b) Consultant must



not, without NYCHA's prior written consent, settle or compromise, or consent to the entry of any judgment in connection with, any such action or claim, if such settlement, compromise or judgment; (i) does not include as an unconditional term thereof an unconditional release of NYCHA and its Members, officers, employees and agents by the claimant or the plaintiff, from all liability regarding such action or claim; and/or (ii) requires NYCHA (or any of its Members, officers, employees and/or agents) to make any admission, acknowledgment, or acceptance of any wrongdoing, negligence, or other liability.

### **13. FINAL PAYMENT AND RELEASE**

Prior to NYCHA's final payment to Consultant, whether upon completion of the Services or as a result of NYCHA's right to terminate the Agreement as provided in the Agreement, and as a condition precedent to such final payment, Consultant must execute and deliver to NYCHA, in a form acceptable to NYCHA, a release by Consultant of NYCHA from all claims against NYCHA arising under and by virtue of the Agreement, other than such good-faith claims, if any, reasonably believed by Consultant to be owed, as may be specifically excepted by Consultant in stated amounts set forth in the release. In the event that a release is not forthcoming to NYCHA, the acceptance, without formal written exception, by Consultant of a check with notice advising that the check is designated as "Final Payment" is, and operates as, a release of NYCHA from any and all claims by, and all liability to, Consultant in connection with the Services and for every act, omission and neglect of NYCHA and others relating to or arising out of the Agreement.

### **14. RIGHT TO AUDIT; MAINTENANCE OF BOOKS AND RECORDS**

- (a) NYCHA, any agency providing funds to NYCHA, the Office of the Inspector General for NYCHA, and the Comptroller General of the United States or any of their duly authorized officers have the right to perform an audit of Consultant's finances and the books and records related to its performance under the Agreement, including, without limitation, the financial arrangement with anyone that Consultant may delegate to discharge any part of its obligations under the Agreement.
- (b) Consultant must include a clause substantially similar to Section 14(a) above in all of its agreements with Subcontractors which exceed \$10,000.00.
- (c) Consultant agrees to maintain all records and supporting materials for the Services for a period of six years following the later of (i) the end of the duration of the Agreement, or (ii) such time as NYCHA makes final payments and all other pending matters related to the Agreement (including, without limitation, litigation, claims and appeals) are closed (the "**Retention Period**"). Prior to the expiration of the Retention Period, NYCHA, in its sole discretion and upon written notice to the Consultant, may extend the Retention Period for an additional one-year.

### **15. OWNERSHIP OF WORK**

Consultant waives any claim or right it has, or may have, against NYCHA or any third party as it may relate to ownership of the product of the Services. Consultant waives all such claims or rights, including, but not limited to, all rights throughout the world of reproduction and distribution on any medium by any means, art or method and all rights in copyright, trademark and patent. Consultant agrees to assign and transfer to NYCHA all rights of every kind in connection with each and every discovery or invention or idea, and any and all expressions thereof of whatsoever nature that arise out of, or are developed in the course of the performance of the Agreement, and in and to any and all electronic, written, audio or visual expressions thereof, and shall turn over such expressions

thereof upon NYCHA's demand therefor and upon the expiration or earlier termination of the Agreement. Specifically, and without in any way limiting the generality of the foregoing, Consultant expressly grants all rights of every kind in any and all material that was not in existence prior to the Agreement but that Consultant or any of its employees or Subcontractors may create or develop in the course of the delivery of Services to NYCHA, whether or not the product of the delivery of such Services constitutes a "work made for hire" as defined in 17 U.S.C. Section 201(b). Further, and notwithstanding the foregoing or anything to the contrary contained in the Agreement, in the event Consultant desires to incorporate any intellectual property or other proprietary items owned by Consultant prior to the date of the Agreement into any product of the Services that will be owned by NYCHA, Consultant shall: (a) inform NYCHA, in writing, before incorporating such intellectual property and/or proprietary item into any such product; and (b) NYCHA is hereby granted and shall have a non-exclusive, royalty-free, perpetual, irrevocable, worldwide license to make, have made, modify, and use such item as part of or in connection with such product. Consultant must, without unreasonable delay, cooperate in any proceeding (including, but not limited to, filing for and obtaining any trademark, patent or copyright registration) and execute any document, including, without limitation, an assignment of trademark, copyright or of letters patent, which NYCHA may reasonably require to show evidence of its ownership of any such copyrights, patents, trademarks or other rights. Consultant agrees that its obligations under this Section shall survive the expiration or earlier termination of the Agreement.

## **16. PROMOTIONAL LITERATURE**

Consultant shall not, without the express prior written approval of NYCHA, (i) use the terms "New York City Housing Authority," "NYCHA," "The City of New York Housing Authority" or any derivation thereof in promotional literature or advertisements (except for use in client lists), (ii) describe the Services in any proposals to potential customers of Consultant or promotional literature or advertisements, or (iii) disseminate or disclose information or material to the general public, news media, or any person or organization.

## **17. CONFIDENTIALITY**

(a) The Parties anticipate that Consultant may acquire access to information and data about the operations (including, but not limited to, information concerning NYCHA's assets and financial data), the staff and the resident population of NYCHA (the "**Confidential Information**"). To the extent that Consultant or any Subcontractor, any of the Subcontractor's subcontractors or sub-consultants at all tiers performing Services or supplying materials or supplies under the Agreement, or any Party Performing Services obtains any Confidential Information, and in furtherance of the Federal Privacy Act of 1974 (as amended), Consultant shall, and shall ensure that such Subcontractor, subcontractor or sub-consultant at all tiers performing Services or supplying materials or supplies under the Agreement, or Party Performing Services who receives Confidential Information shall: (i) protect and preserve the confidentiality of such Confidential Information with the same care and diligence with which it protects and preserves its own most secret business information; (ii) use such Confidential Information only in the performance of its obligations arising under the Agreement; and (iii) make no disclosure of such Confidential Information other than to an employee of NYCHA or to an employee or Subcontractor in the course of such Consultant employee's or Subcontractor's provision of Services under the Agreement. In addition, Consultant agrees to obtain a written commitment from each employee, Subcontractor, Subcontractor's subcontractors or sub-consultants at all tiers performing Services or supplying materials or supplies under the Agreement, or any Party Performing Services that it may use in its performance of the Agreement to be bound by the terms of this Section, and, in such case: (i) Consultant agrees to make available the original copy of any such commitment upon written request from NYCHA from time to time; and (ii) Consultant shall be liable

for any breach of such confidentiality obligations by any such employee, or Subcontractor. Consultant agrees that the obligation of confidentiality set forth in this Section shall survive the termination or expiration of the Agreement. Upon the termination of the Agreement for any reason, Consultant must surrender immediately to NYCHA all materials provided by NYCHA or prepared by Consultant under the Agreement; provided, however, that Consultant may retain a copy of all materials prepared by Consultant as part of its work papers, which shall be treated by Consultant as Confidential Information.

- (b) Consultant understands and acknowledges that NYCHA is not making any representation or warranty, express or implied, as to the accuracy or completeness of the Confidential Information, and Consultant agrees that NYCHA shall have no liability to Consultant or any of its employees or Subcontractors that may be based upon or relate to any errors therein or omissions therefrom.
- (c) If Consultant or any of its employees, Subcontractors, subcontractors or sub-consultants of the Subcontractor at all tiers performing Services or supplying materials or supplies under the Agreement, or any Party Performing Services is required (by law, regulation, deposition, interrogatory, request for documents, subpoena, civil investigative demand or similar process) to disclose any of the Confidential Information, it shall provide NYCHA with written notice of such requirement promptly upon learning of it so as to allow NYCHA sufficient time to obtain an appropriate injunction or other protective remedy and shall fully cooperate with NYCHA in obtaining such injunction or other protective remedy. Thereafter, and in the event that such injunction or protective remedy is not obtained for any reason whatsoever (or is obtained only with respect to a portion of the Confidential Information), Consultant shall (and shall direct its employees, Subcontractors, and agents, subcontractors or sub-consultants of the Subcontractor at all tiers performing Services or supplying materials or supplies under the Agreement, or any Party Performing Services, as applicable, to do likewise) only furnish that portion of the Confidential Information which, in the opinion of its counsel, it is legally required and only in the manner legally required and shall exercise commercially reasonable efforts to obtain assurances that confidential treatment shall be accorded to any of the Confidential Information so disclosed.
- (d) Consultant agrees that a breach of this Section 17 may result in irrevocable harm and damage to NYCHA which would be difficult to measure. Therefore, without limiting any of NYCHA's rights and remedies set forth in the Agreement, in the event of any breach or threatened breach of this Section 17 by Consultant or any of its employees, Subcontractors, agents, subcontractors or sub-consultants of the Subcontractor at all tiers performing Services or supplying materials or supplies under the Agreement, or any Party Performing Service, NYCHA shall be entitled to equitable relief, including injunctions and orders for specific performance, in addition to all other remedies available at law or in equity, without any requirement to post a bond or other security and without having to establish irrevocable harm.
- (e) If the Services include Consultant receiving from NYCHA either "PII" or "NYCHA Data" (as defined in Subsection (f) below), then, in addition to the requirements of Subsections (a)–(d) of this Section 17, Subsection (f) shall apply to Consultant, and Consultant shall ensure that Section 17(f) applies to its Subcontractors, subcontractors or sub-consultants of the Subcontractor at all tiers performing Services or supplying materials or supplies under the Agreement, or any Party Performing Service.
- (f) Personally Identifiable Information and NYCHA Data.
  - i. Definitions. PII and NYCHA Data. Personally identifiable information ("PII") is data or information, whether in hard copy, electronic media or any other form, which on its own or coupled with other

information, can be used to distinguish or trace an individual's identity. PII includes, but is not limited to:

- A. An individual's name (first name and last name, or first initial and last name), phone number, address or social security number.
- B. Any combination of: (1) one of the following items with an item identified in paragraph (f)(i)(A) above, or (2) any combination of two of the following items:
  - (I) date of birth;
  - (II) credit and/or debit card information;
  - (III) income and/or credit history;
  - (IV) bank account information;
  - (V) driver's license number;
  - (VI) passport number;
  - (VII) tax return;
  - (VIII) asset statement;
  - (IX) other financial or personal information; and/or
  - (X) other information concerning citizenship or immigration status, or ethnic or religious data.
- C. Any number, code, or combination of numbers and codes, such as account number, security code, access code, or password allowing access to or use of an individual's financial or credit account.
- D. Individually identifiable information created and collected as part of research projects.
- E. Health information such as medical records (in hard copy or electronic form).
- F. Biometric information such as DNA, fingerprint, and photographic facial images.

**"NYCHA Data"** shall include, among other information, PII and Confidential Information as defined in Section 17(a) above. NYCHA Data shall not include public records that by law must be made available to the general public. To the extent there is any uncertainty as to whether any data or information constitutes NYCHA Data, the data or information in question shall be treated as NYCHA Data until a determination is made by NYCHA.

- ii. Data Confidentiality. Consultant shall maintain appropriate measures designed to ensure the confidentiality and security of NYCHA Data, protect against any anticipated hazards or threats to the integrity or security of NYCHA Data, protect against unauthorized access to or disclosure of NYCHA Data, and prevent any other action that could result in substantial harm to NYCHA or an individual identified with the NYCHA Data in Consultant's custody.
- iii. Compliance with Laws and NYCHA Procedures. Consultant will not knowingly permit any of Consultant's personnel to have access to any NYCHA Data if the person has been convicted of a crime in connection with (A) a dishonest act, breach of trust, or money laundering, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such

offense, as described in Section 19 of the Federal Deposit Insurance Act, 12 U.S.C. §1829(a); or (B) a felony. Consultant must, to the extent permitted by law, conduct a check of public records in all of the person's states of residence and employment for at least the last five years in order to verify the above. Consultant also agrees to comply with NYCHA's Standard Procedures concerning privacy and all applicable state and federal laws and regulations.

- iv. Network Security. Consultant agrees at all times to maintain commercially reasonable network security coverage that, at a minimum, includes: network firewall provisioning, intrusion detection/prevention, vulnerability scanning, security patching, and periodic third-party penetration testing. Likewise, Consultant agrees to maintain network security coverage that, at a minimum, conforms to current NIST or ISO standards as may be updated and amended from time to time.
  
- v. Data Security. Consultant agrees to protect and maintain the security of NYCHA's Data with protection security measures that include maintaining secure environments that are patched and up to date with all appropriate critical and severe security updates as designated by a relevant authority (e.g., Microsoft updates notifications) and the use of an industry standard endpoint detection and response agent. Consultant also agrees to conform to the following measures to protect and secure NYCHA Data:
  - A. Data Transmission. Consultant agrees that any and all transmission or exchange of NYCHA Data with NYCHA and/or any other parties, solely in accordance with Section 17(f)(vi) below, shall take place via secure means (e.g., HTTPS, FTPS, SFTP or equivalent means).
  
  - B. Data Storage and Backup. Consultant agrees that any and all NYCHA Data will be stored, processed, and maintained solely on designated servers and that no NYCHA Data at any time will be processed on or transferred to any portable or laptop computing device or any portable storage medium. All servers, storage, backups, and network paths utilized in the delivery of the service shall be contained within the states, districts, and territories of the United States unless specifically agreed to in writing by a NYCHA officer with signature authority. Consultant agrees to store all NYCHA Data stored as part of its backup and recovery processes in encrypted form, using no less than 128 bit key.
  
  - C. Data Re-Use. Consultant agrees that any and all data exchanged shall be used expressly and solely for the purposes enumerated in the Agreement between NYCHA and Consultant. NYCHA Data shall not be distributed, repurposed or shared across other applications, environments, or business units of Consultant. As required by law, Consultant further agrees that no NYCHA Data of any kind shall be revealed, transmitted, exchanged or otherwise passed to third parties or interested parties.
  
- vi. End of Agreement Data Handling. Consultant agrees that upon termination of the Agreement it shall return all NYCHA Data in a useable electronic form, and erase, destroy, and render unreadable all NYCHA Data in its entirety in a manner that prevents its physical reconstruction, and certify in writing that these actions have been completed within 30 calendar days of the termination of the Agreement or within seven days of NYCHA's request, whichever shall come first.

- vii. Data Breach. In the event of a breach of any of Consultant's security obligations or any other event requiring notification under an applicable law ("**Notification Event**"), Consultant shall notify NYCHA immediately and inform all such individuals in accordance with applicable law and indemnify, hold harmless and defend NYCHA and its Members, officers, and employees from and against any claims, damages, or other harm related to such Notification Event. In addition to the NYCHA personnel identified in the Agreement, Consultant shall also provide notification of a notification event to the Chief Privacy Officer via e-mail at [privacy@nycha.nyc.gov](mailto:privacy@nycha.nyc.gov), and to NYCHA's Risk Management Department via telephone at (212) 306-6682 and mail sent to: New York City Housing Authority, 90 Church Street, 6th Floor, New York, NY 10007-2919, Attention: Risk Management Department. For purposes of clarity, a Notification Event shall include, but not be limited to, any situation where NYCHA Data, whether physical or electronic, is disclosed to, or can be accessed by, an individual who is not authorized to access the information or when NYCHA Data is used for an unauthorized purpose. Consultant shall notify NYCHA if it has experienced, or suspects it has experienced, a Notification Event within (i) 48 hours of a suspected Notification Event and (ii) within 24 hours of a confirmed Notification Event. Consultant shall investigate all Notification Events in a manner that meets or exceeds industry standards at their sole cost and expense and promptly provide NYCHA with all material information that is discovered. If NYCHA determines that NYCHA is required under applicable law, regulation, or HUD guidance, including, but not limited to, HUD Notice PIH 2015-06, to notify individuals affected by the Notification Event, Consultant agrees to reimburse NYCHA the costs of such notifications.
- viii. Mandatory Disclosure of NYCHA Data. If Consultant or any of its employees is required (by law, regulation, deposition, interrogatory, request for documents, subpoena, civil investigative demand or similar process) to disclose any of the NYCHA Data, it shall provide NYCHA with written notice of such requirement promptly upon learning of it so as to allow NYCHA sufficient time to obtain an appropriate injunction or other protective remedy and shall fully cooperate with NYCHA in obtaining such injunction or other protective remedy. Thereafter, and in the event that such injunction or protective remedy is not obtained for any reason whatsoever (or is obtained only with respect to a portion of the NYCHA Data), Consultant shall (and shall direct its employees and agents, as applicable, to do likewise) only furnish that portion of the NYCHA Data which, in the opinion of its counsel, it is legally required and only in the manner legally required and shall exercise commercially reasonable efforts to obtain assurances that confidential treatment shall be accorded to any of the NYCHA Data so disclosed. In addition to the NYCHA personnel identified in the Agreement, Consultant shall also provide notification of a notification event to the Chief Privacy Officer via e-mail at [privacy@nycha.nyc.gov](mailto:privacy@nycha.nyc.gov), and to NYCHA's Risk Management Department via telephone at (212) 306-6682 and mail sent to: New York City Housing Authority, 90 Church Street, 6th Floor, New York, NY 10007-2919, Attention: Risk Management Department.
- ix. Remedies for Disclosure of NYCHA Data. Consultant agrees that any breach of the requirements with respect to NYCHA Data set forth in the Agreement may result in irrevocable harm and damage to NYCHA which would be difficult to measure. Therefore, without limiting any of NYCHA's rights and remedies set forth in the Agreement, in the event of any breach or threatened breach of any such requirements under the Agreement by Consultant or any of its employees or agents, NYCHA shall be entitled to equitable relief, including injunctions and orders for specific performance, in addition to all other remedies available at law or in equity, without any requirement to post a bond or other security and without having to establish irrevocable harm.

- x. Safekeeping and Security. Consultant shall protect all keys, access codes, combinations, access cards, personal identification numbers and similar security codes and identifiers issued to Consultant's employees, or agents. Consultant agrees to require its employees to promptly report a lost or stolen access device or information.

**18. ASSIGNMENT; DELEGATION AND SUBCONTRACTING**

- (a) The Agreement and the rights and duties under the Agreement must not be assigned, delegated or subcontracted by Consultant without the prior written consent of NYCHA, and any purported assignment, delegation or subcontracting of the Agreement without said consent of NYCHA is void. In addition to the requirements of Section 34 below, when issuing solicitations for subcontractors, Consultant shall take affirmative steps to include minority-owned, women-owned, and small business enterprises since it is the policy of NYCHA to ensure that all businesses have an equal opportunity to participate in all aspects of NYCHA's procurement of goods and services. Consultant shall state in all solicitations or advertisements for bids for subcontractors placed by or on behalf of Consultant that all qualified businesses will receive consideration for subcontracts without regard to the age, alienage or citizenship status, color, creed, physical or mental disability (in regard to any position for which the employee or applicant for employment is qualified, gender (including sexual harassment), marital or familial status, military service, national origin, prior arrest record, race, religion, sex, sexual orientation, gender identity, and status as a victim of domestic violence or for any other unlawful reason of the owners, partners, management or stockholders of a business. In order to fulfill the Agreement's contracting requirements as set forth in Section 34 below, Consultant and subcontractors must be certified by the New York City Department of Small Businesses ("**SBS**").
- (b) Minority-owned, women-owned, and small business enterprises are defined as follows:
  - (i) Minority business enterprise ("**MBE**") means a business that is at least 51% owned by one or more minority group members; or, in the case of a publicly-owned business, one in which at least 51% of its voting stock is owned by one or more minority group members, and whose management and daily business operations are controlled by one or more such individuals. For this purpose, minority group members include: (A) Black persons having origins in any of the Black African racial groups; (B) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin, regardless of race; (C) Native American or Alaskan native persons having origins in any of the original peoples of North America; (D) Asian and Pacific Islander persons having origins in any of the Far East countries, Southeast Asia, the Indian subcontinent or the Pacific Islands; and (E) those groups of United States citizens or resident legal aliens designated by the Small Business Administration or any group designated by the Secretary of the United States Department of Housing and Urban Development.
  - (ii) Women business enterprise ("**WBE**") means a business that is at least 51% owned by one or more women who are United States citizens or resident legal aliens; or, in the case of publicly-owned businesses, one in which at least 51% of the stock is owned by one or more women who are United States citizens or resident legal aliens, and whose management and daily operations of the business are controlled by one or more such women.
  - (iii) Small business enterprise means a business that is owned by one or more persons who are United States citizens or resident legal aliens, with a place of business located in the United States,

operates primarily within the United States and is sized consistently with the requirements set forth in 13 CFR Section 121.201, which defines size standards for small businesses, based on either annual receipts or the number of employees.

**19. SUSPENSION OF SERVICES**

NYCHA may order Consultant to suspend the Services, in whole or in part, for NYCHA's convenience for such period of time as it may deem appropriate; provided, however, that where such suspension is made for an unreasonable period of time, an adjustment will be made for any increase in the cost of performance of the Services caused by such suspension. No adjustment will be made, however, where the work is suspended or delayed by any other cause, including, without limitation, the fault, negligence or improper performance of Consultant.

**20. TERMINATION OF AGREEMENT FOR CONVENIENCE**

NYCHA has sole discretion to terminate the Agreement, in whole or in part, at any time for its convenience upon prior written notice to Consultant of NYCHA's intention to terminate the Agreement. Such termination may be for any reason or for no reason. After receipt of such notice, Consultant must cease all work under the Agreement, unless otherwise directed in the notice. Consultant will be entitled to payment for the Services, as defined in the Agreement, performed up to the time of termination stated in such notice, provided that NYCHA first receives and approves a request for payment and an invoice.

**21. TERMINATION OF AGREEMENT OTHER THAN FOR CONVENIENCE**

- (a) If Consultant breaches, violates or defaults on any of the terms of the Agreement, NYCHA has the right to give Consultant written notice specifying the nature of the breach, violation or default. Thereafter, Consultant has 30 calendar days, or such shorter period as NYCHA in its sole discretion may require under the circumstances, after Consultant's receipt of such notice to remedy the breach, violation or default. In the event that Consultant fails to remedy the breach, violation or default within such 30 calendar-day period, or such shorter period as NYCHA in its sole discretion may require under the circumstances, NYCHA then has the right to immediately terminate the Agreement by sending Consultant a written "Notice of Default and Termination." NYCHA's determination that Consultant has failed to remedy the breach, violation or default and that the Agreement is terminated shall be conclusive, final and binding on the Parties and such a finding shall preclude Consultant from commencing a plenary action for any damages relating to the Agreement. If Consultant protests NYCHA's determination, Consultant may commence a proceeding under Article 78 of the New York Civil Practice Law and Rules, which proceeding must be maintained in a court of competent jurisdiction sitting in the City and County of New York.
- (b) If NYCHA breaches, violates or defaults on any of the terms of the Agreement, Consultant has the right to give NYCHA written notice specifying the nature of the breach, violation or default. Thereafter, NYCHA has 30 calendar days after NYCHA's receipt of such notice to remedy the breach, violation or default. In the event that NYCHA fails to remedy the breach, violation or default within such 30 calendar-day period, Consultant then has the right to immediately terminate the Agreement. Termination of the Agreement under this provision shall not give rise to any claim against NYCHA for damages, including, without limitation, for lost profits, or for compensation in addition to that provided hereunder.
- (c) In the event of any termination under Section 21(a), Consultant is not entitled to any further payment for any Services performed until such time as any dispute regarding Consultant's default or any damages



incurred by NYCHA has either been resolved to the satisfaction of both Parties or been adjudicated finally beyond any applicable appeal.

## **22. INVESTIGATIONS; CANCELLATION AND DISQUALIFICATION UNDER CERTAIN CIRCUMSTANCES**

- (a) The Parties to the Agreement agree to cooperate fully and faithfully with any investigation, audit or inquiry conducted by a State of New York (“**State**”) or 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 NYCHA with respect to the transaction, submitted bid, submitted proposal, Agreement, contract, lease, license, or person dealing with NYCHA that is the subject of the investigation, audit or inquiry.
- i. 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, contract, lease or license entered into with NYCHA, 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;
  - ii. 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 NYCHA, and is seeking testimony concerning the award of, or performance under, any transaction, Agreement, contract, lease or license entered into with NYCHA, the City, the State, or any political subdivision thereof or any local development corporation within the City; then;
  - iii. The Chair and Chief Executive Officer (the “**Chair and CEO**”) of NYCHA, or his/her designee, shall convene a hearing, upon no 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.
  - iv. If any non-governmental party to the hearing requests an adjournment, the Chair and CEO of NYCHA, or his/her designee, may, upon granting the adjournment, suspend any Agreement, contract, lease or license with such party pending the final determination pursuant to subsection (b) below without NYCHA incurring any penalty or damages for delay or otherwise.
- (b) The penalties which may attach a final determination by the Chair and CEO of NYCHA, or his/her designee, may include but shall not exceed:
- i. 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 agreement, contract, lease or license with or from NYCHA; and/or

- ii. The cancellation or termination of any and all such existing NYCHA agreements contracts, leases or licenses that the refusal to testify concerns and that have not been assigned as permitted under the 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 NYCHA 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 NYCHA.
- (c) The Chair and CEO of NYCHA, or his/her designee, shall consider and address in reaching his or her determination and in assessing an appropriate penalty the factors in Articles (i) and (ii) immediately below. He or she may also consider, if relevant and appropriate, the criteria established in Articles (3) and (4) immediately below in addition to any other information which may be relevant and appropriate;
- i. 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.
  - ii. 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.
  - iii. The nexus of the testimony sought to the subject entity and its agreements, contracts, leases or licenses with NYCHA.
  - iv. 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 subsection (b) above, provided that the party or entity has given actual notice to the Chair and CEO of NYCHA, or his/her designee, upon the acquisition of the interest, or at the hearing called for in Section 22(a)(iii) 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.
- (d) As used in this Section, the below terms are defined as follows:
- i. "license": A license not granted as a matter of right.
  - ii. "person": any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.
  - iii. "entity": any firm, partnership, corporation, association, or person that receives monies, benefits, licenses, or leases from NYCHA or otherwise transacts business with NYCHA.
  - iv. "member": any person associated with another person or entity as a partner, director, officer, principal or employee.

- (e) In addition to and notwithstanding any other provision of this Agreement, the Chair and CEO of NYCHA, or his/her designee, may in his or her sole discretion terminate the Agreement upon not less than three (3) days written notice in the event Consultant fails to promptly report in writing to the Commissioner of the Department 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 NYCHA or other person, firm corporation or entity for any purpose which may be related to the procurement or obtaining of the Agreement by Consultant, or affecting the performance of the Agreement.

### **23. CHANGED CIRCUMSTANCES**

If, at any time after the execution of the Agreement by the Parties, NYCHA is informed of “Changed Circumstances” (as defined in this Section) with regard to Consultant, and NYCHA, in its sole discretion, determines that under such Changed Circumstances the continuation of the Agreement would be contrary to NYCHA’s best interests, then NYCHA, in its sole discretion, may terminate the Agreement upon one calendar day’s prior written notice to Consultant. As used in this Section, the term “**Changed Circumstances**” shall mean: (a) the initiation of any type of investigation by any federal, state or local governmental department, agency, authority or other instrumentality (including by the Office of the Inspector General of NYCHA), or by any federal, state or local prosecutor’s office, into any activity or operation of Consultant or any director, officer, principal shareholder, partner or other principal, or Subcontractor; or (b) the return of any federal or state grand jury indictment against Consultant or any director, officer, principal shareholder, partner or other principal, or Subcontractor; or (c) the filing of any information by any federal, state or local prosecutor charging Consultant or any director, officer, principal shareholder, partner or other principal, or Subcontractor with the commission of any felony. In the event of any termination under this Section, Consultant is entitled to payment as provided under Section 22 above, entitled “Termination of Agreement for Convenience,” except that NYCHA has the right to part or all of any profit that would otherwise be payable under such Section in the event the investigation or indictment pertains, in whole or in part, to the solicitation, award or performance of the Agreement.

### **24. DISPUTES**

All claims by Consultant shall be made in writing and submitted to NYCHA. In the event that Consultant has a dispute with NYCHA under the Agreement, including any claims for damages for the alleged breach thereof which are not disposed of by written agreement, Consultant must, within 30 calendar days after such dispute has arisen, notify NYCHA in writing of Consultant’s contention and submit its claim, specifying the nature of the claim and the sum claimed. If the dispute arises prior to the performance of the related duties, the written notice must be submitted prior to the commencement of such duties. In any event, Consultant must proceed diligently with its duties under the Agreement pending final resolution of any request for relief, claim, appeal or action arising under the Agreement, and comply with any decision of NYCHA. Consultant must further proceed in compliance with the written instructions of NYCHA, and such compliance is not deemed to be a waiver of Consultant’s right to pursue its claim, provided it has first given the notice required by this Section. The filing by the Consultant of the written notice required by this Section within the time limited herein shall be a condition precedent (unless such condition is waived by NYCHA in writing) to the settlement of any claim or to the Consultant’s right to resort to any proceeding or action to recover therein, and failure by the Consultant to timely file such notice shall be deemed to be a conclusive and binding determination that the Consultant has no claim against NYCHA and shall be deemed a waiver by the Consultant of all claims for additional compensation or for damages.

### **25. NEW YORK LAW**

The Agreement and performance of it are governed by and are to be construed in accordance with the laws of the State of New York, excluding New York's rules regarding conflicts of laws. Any and all proceedings relating to the subject matter of the Agreement must be maintained in the state courts sitting in the City and County of New York, which courts have exclusive jurisdiction for such purpose. The Parties hereby consent to submit themselves to the jurisdiction of such courts with respect to any proceedings arising out of, under or related to the Agreement.

**26. LIMITATION OF ACTIONS; WAIVER OF TRIAL BY JURY**

- (a) No action or special proceeding will lie or be maintained by Consultant, its permitted assignees, designees, successors in interest, or anyone claiming under Consultant, against NYCHA: (i) based upon any claim arising out of, under or related to the Agreement, or by reason of any act, omission or requirement of NYCHA, unless such action or special proceeding is commenced within one year after the date of final payment under the Agreement; or (ii) based upon any claim for monies to be retained for any period after the date of final payment under the Agreement, unless such action or special proceeding is commenced within one year after such monies become due and payable under the terms of the Agreement; or (iii) if the Agreement is terminated, rescinded, revoked, annulled, or abandoned under its terms, unless such action or special proceeding is commenced within one year after the date of termination, rescission, revocation, annulment, or abandonment. Nothing in the Agreement is deemed to extend any applicable statute of limitations. Consultant, its permitted assignees, designees, successors in interest, or anyone claiming under it is not entitled to any additional time to begin anew any other action or special proceeding, if an action or special proceeding commenced within the times specified in this Section is dismissed or discontinued, notwithstanding any provisions in the Civil Practice Law and Rules of the State of New York to the contrary.
- (b) NYCHA and Consultant agree to, and they each hereby do, waive trial by jury in any action, counterclaim or third party action brought by either of the Parties against the other based on any claim or other matter arising out of, under or related to the Agreement; provided, however, that there shall be excepted from the foregoing waiver of trial by jury any action based upon a claim for damages for personal injuries or death.

**27. DAMAGES**

Consultant hereby agrees that in no event will NYCHA be liable to Consultant for any special, punitive, incidental or consequential damages, including, without limitation, lost profits or lost business opportunity.

**28. SEVERABILITY**

If any provision of the Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions are in no way affected or impaired and the remaining provisions remain in full force and effect, and the invalid, illegal or unenforceable provision will be replaced by a mutually acceptable provision which, being valid, legal and enforceable, comes closest to the intention of the Parties underlying the invalid, illegal or unenforceable provision.

**29. MODIFICATION; AMENDMENT OR SUPPLEMENT**

The Agreement constitutes the entire agreement between the Parties, and any modification, amendment or supplement to the Agreement is not valid or enforceable against either Party unless it is in writing and signed by duly authorized officers of both Parties.

**30. ARM'S-LENGTH TRANSACTION -- WAIVER OF CONTRA PROFERENTEM RULE**

The Agreement has been freely negotiated by both Parties. In the event of any controversy, dispute or contest over the meaning, interpretation, validity or enforceability of the Agreement, or any of its terms or conditions, there shall be no inference, presumption or conclusion drawn whatsoever against either Party by virtue of that Party's having drafted the Agreement or any portion thereof.

**31. NO BRIBE, KICKBACK OR OTHER INDUCEMENT**

Consultant represents to NYCHA and hereby covenants that Consultant has not and will not engage in any scheme or practice that seeks to solicit, pay or receive as payment, or to deliver to anyone, any sum or thing of value (including, without limitation, the performance of any service) that may constitute or be construed as a bribe, kick-back, or other inducement that in any manner may prejudice NYCHA's interests or compromise the duty owed by anyone to NYCHA. Consultant acknowledges that NYCHA is relying upon this representation and covenant as a material inducement to enter into the Agreement with Consultant.

**32. PROHIBITION ON USE OF TROPICAL HARDWOODS**

Tropical hardwoods and tropical hardwood products, as defined in Section 165 of the State Finance Law, must not be obtained or utilized in the performance of the Agreement, except as expressly permitted by the said Section 165. Any bid, proposal or other response to a solicitation for bid or proposal that proposes or calls for the use of any tropical hardwood or tropical hardwood product in the performance of the Agreement is non-responsive.

**33. NYCHA'S RIGHT TO WITHHOLD MONEY OUT OF PAYMENTS**

If the Services are not performed in strict accordance with the Agreement, or if the services of any other agreement between Consultant herein and NYCHA are not performed in strict accordance with that agreement's terms, or if NYCHA has a claim against Consultant for any other reason whatsoever, or if any claim is made against NYCHA, just or unjust (including claims for wrongful death and for injuries to person or property), arising out of or in connection with the Agreement or Consultant's performance of the Services, NYCHA shall have the right to withhold out of any payment, final or otherwise, such sums as NYCHA may deem ample to protect it against delays or loss or to assure the payment of such claims.

**34. CONTRACTING WITH MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES**

(a) In furtherance and not in limitation of Section 18 above, and subject to paragraph (b) below, during the Term of the Agreement, the Consultant agrees to fulfill the Agreement's contracting requirements with MBEs and WBEs (collectively, "M/WBEs") that are certified as such by the SBS. These requirements are described in greater detail in NYCHA's Contracting With Minority and Women-Owned Business Enterprises requirements, attached as an Exhibit to the Agreement, and shall be fulfilled by the Consultant in accordance with the Consultant's approved M/WBE Utilization Plan submitted to NYCHA as part of the Consultant's Proposal and made part of the Agreement.

- (b) In the event the Consultant requested and was granted a waiver (“**M/WBE Waiver**”) by NYCHA in connection with NYCHA’s Contracting With Minority and Women-Owned Business Enterprises requirements, then such requirements shall not apply to the extent a M/WBE Waiver is granted by NYCHA. A copy of the approved M/WBE Waiver is attached to the Agreement as an Exhibit (if applicable).

**35. CHANGES**

- (a) NYCHA may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of the Agreement in the Services to be performed or supplies to be delivered.
- (b) If any such change causes an increase or decrease in the hourly rate, the Maximum Fee/Not-to-Exceed Amount, or the time required for performance of any part of the Services, whether or not changed by the order, or otherwise affects the conditions of the Agreement, NYCHA shall make an equitable adjustment in the Maximum Fee/Not-to-Exceed Amount, the hourly rate, the delivery schedule, or other affected terms, and shall modify the Agreement accordingly.
- (c) Consultant must assert its right to an equitable adjustment under this Section 35 within 30 calendar days from the date of receipt of the written order. However, if NYCHA decides that the facts justify it, NYCHA may receive and act upon a proposal submitted before final payment of the Agreement.
- (d) Failure to agree to any adjustment shall be a dispute under Section 24 of these NYCHA General Terms and Conditions. However, nothing in this Section 35 shall excuse Consultant from proceeding with the Agreement as changed.
- (e) No Services for which an additional cost or fee will be charged by Consultant shall be furnished without the prior written consent of NYCHA.

**36. ORGANIZATIONAL CONFLICTS OF INTEREST**

- (a) Consultant warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of the Services under the Agreement and Consultant’s organizational, financial, contractual or other interests are such that: (i) award of the Agreement may result in an unfair competitive advantage; or (ii) Consultant’s objectivity in performing the Services may be impaired.
- (b) Consultant agrees that if after award it discovers an organizational conflict of interest with respect to the Agreement or any task/delivery order under the Agreement, Consultant shall make an immediate and full disclosure in writing to NYCHA which shall include a description of the action which Consultant has taken or intends to take to eliminate or neutralize the conflict. NYCHA may, however, terminate the Agreement or task/delivery order for the convenience of NYCHA if it would be in the best interest of NYCHA.
- (c) In the event Consultant was aware of an organizational conflict of interest before the award of the Agreement and intentionally did not disclose the conflict to NYCHA, NYCHA may terminate the Agreement for default (i.e., Other Than Convenience).
- (d) The terms of this Section 36 shall be included in all subcontracts and consulting agreements wherein the

work to be performed is similar to the Services provided by Consultant. Consultant shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

**37. CONSULTANT'S STATUS**

It is understood that Consultant is an independent contractor and is not to be considered an employee of NYCHA, or assume any right, privilege or duties of an employee, and shall save harmless NYCHA and its Members, officers, and employees from claims, suits, actions and costs of every description resulting from Consultant's activities on behalf of NYCHA in connection with the Agreement.

**38. OTHER CONSULTANTS**

NYCHA may undertake or award other contracts for additional work at or near the site(s) of the Services to be performed under the Agreement. Consultant shall fully cooperate with the other consultants and with NYCHA and HUD employees and shall carefully adapt scheduling and performing the Services under the Agreement to accommodate the additional work, heeding any direction that may be provided by NYCHA. Consultant shall not commit or permit any act that will interfere with the performance of work by any other consultant or NYCHA employee.

**39. LIENS**

Consultant is prohibited from placing a lien on NYCHA's property. This prohibition shall apply to all subcontractors.

**40. PROCUREMENT OF RECOVERED MATERIALS**

- (a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, Consultant shall procure items designated in guidelines of the Environmental Protection Agency (the "EPA") at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. Consultant shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless Consultant determines that such items: (i) are not reasonably available in a reasonable period of time; (ii) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (iii) are only available at an unreasonable price.
- (b) Section 40(a) shall apply to items purchased under the Agreement where: (i) Consultant purchases in excess of \$10,000 of the item under the Agreement; or (ii) during the preceding Federal fiscal year, Consultant: (A) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (B) purchased a total of in excess of \$10,000 of the item both under and outside that contract.

**41. LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS**

(a) Definitions. As used in this clause:

“Agency”, as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1).

“Covered Federal Action” means any of the following Federal actions:

- (i) the awarding of any Federal contract;
- (ii) the making of any Federal grant;
- (iii) the making of any Federal loan;
- (iv) the entering into of any cooperative agreement; and,
- (v) the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan.

“Indian tribe” and “tribal organization” have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B). Alaskan Natives are included under the definitions of Indian tribes in that Act.

“Influencing or attempting to influence” means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any covered Federal action.

“Local government” means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

“Officer or employee of an agency” includes the following individuals who are employed by an agency:

- (A) An individual who is appointed to a position in the Government under title 5, U.S.C., including a position under a temporary appointment;
- (B) A member of the uniformed services as defined in section 202, title 18, U.S.C.;
- (C) A special Government employee as defined in section 202, title 18, U.S.C.; and,
- (D) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, appendix 2.

“Person” means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or other Indian organization with respect to expenditures specifically permitted by other Federal law.

“Recipient” includes all contractors, subcontractors at any tier, and subgrantees at any tier of the recipient



of funds received in connection with a Federal contract, grant, loan, or cooperative agreement. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

“Regularly employed” means, with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, or cooperative agreement. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

“State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

(b) Prohibition.

(i) Section 1352 of title 31, U.S.C. provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(ii) The prohibition does not apply as follows:

(A) Agency and legislative liaison by Own Employees.

(I) The prohibition on the use of appropriated funds, in paragraph (b)(i) of this Section 41, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, if the payment is for agency and legislative activities not directly related to a covered Federal action.

(II) For purposes of paragraph (b)(ii)(A)(I) of this Section 41, providing any information specifically requested by an agency or Congress is permitted at any time.

(III) The following agency and legislative liaison activities are permitted at any time only where they are not related to a specific solicitation for any covered Federal action:

(a) Discussing with an agency (including individual demonstrations) the

qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and

(b) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(IV) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:

(a) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(b) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(c) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

(V) Only those activities expressly authorized by subdivision (b)(ii)(A)(I) of this clause are permitted under this clause.

(B) Professional and technical services.

(I) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this Section 41, does not apply in the case of:

(a) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(b) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

- (II) For purposes of sub-Section 41(b)(ii)(B)(I), “professional and technical services” shall be limited to advice and analysis directly applying any professional or technical discipline.
- (III) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.
- (IV) Only those services expressly authorized by subdivisions (b)(ii)(B)(I)(a) and (b) of this section are permitted under this clause.

(C) Selling activities by independent sales representatives. The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this Section 42, does not apply to the following selling activities before an agency by independent sales representatives, provided such activities are prior to formal solicitation by an agency and are specifically limited to the merits of the matter:

- (I) Discussing with an agency (including individual demonstration) the qualities and characteristics of the person’s products or services, conditions or terms of sale, and service capabilities; and
- (II) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency’s use.

- (c) Agreement. In accepting any contract, grant, cooperative agreement, or loan resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.
- (d) Penalties. Any person who makes an expenditure prohibited under paragraph (b) of this Section 42 shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.
- (e) Cost Allowability. Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation (FAR), or OMB Circulars dealing with cost allowability for recipients of assistance agreements. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of FAR Part 31 or the relevant OMB Circulars.

**42. DEBARMENT AND SUSPENSION**

No subcontract shall be made to parties listed on the General Service Administration’s “List of Parties Excluded from Federal Procurement or Non-Procurement Programs” in accordance with Executive Orders 12549 and 12689, “Debarment and Suspension.” This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than Executive Order 12549.

**43. BYRD ANTI-LOBBYING AMENDMENT**

If the Agreement's Maximum Fee/Not-to-Exceed Amount is \$100,000 or more, each tier shall certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes places in connection with obtaining any Federal award. Such disclosures shall be forwarded from tier to tier up to NYCHA.

#### **44. HUD REPORTING REQUIREMENTS**

Consultant shall complete and submit all reports, in such form and according to such schedule, as may be required by NYCHA to comply with HUD requirements and regulations pertaining to reporting.

#### **45. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT**

In compliance with 2 CFR 200.216, Consultant shall not obligate or expend funds received from NYCHA to procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract) to procure or obtain covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, "covered telecommunications equipment or services" means any of the following:

- (a) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
- (b) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- (c) Telecommunications or video surveillance services provided by Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities), or using any of the equipment listed in 45(a) or (b) above.
- (d) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

#### **46. DOMESTIC PREFERENCES FOR PROCUREMENTS**

To the greatest extent practicable, Consultant shall provide a preference for the purchase, acquisition, or use of

goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products) in compliance with 2 CFR 200.322. For purposes of this section, “produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States, and “manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

**47. INTELLECTUAL PROPERTY INFRINGEMENT**

In furtherance of Section 5 and Section 11, if as part of the Services, Consultant provides NYCHA with the use of any intellectual property, proprietary item, and/or proprietary right, including but not limited to a United States Letters Patent, trademark, service mark, copyright, and/or trade secret (“**Intellectual Property**”), and if a third party claim for infringement, unfair competition, theft, or any other claim related to such Intellectual Property is brought against NYCHA or the Consultant to prevent NYCHA’s use of such, Consultant will use its best efforts to secure and maintain for NYCHA the unrestricted right to the continued use of such intellectual property, proprietary item, and/or proprietary right including but not limited to the use of any affected deliverable or product of the Services.

\*\*\*\*\*

**RIDER 1**

**NYCHA INSURANCE REQUIREMENTS**

**NYCHA Insurance Requirements  
Template 02 – IT, Network & Data Access**

INSURANCE TYPE	MINIMUM LIMITS OF INSURANCE	REQUIRED POLICY TERMS & CONDITIONS
<p><b>Workers' Compensation &amp; Employer's Liability</b></p> <p>CE-200 Exemption Accepted if Applicable for Sole Proprietors Only.</p>	<p>Workers' Compensation &amp; Employer's Liability insurance coverage compliant with the statutory requirements of the State of New York.</p>	<p><b>Form:</b> As required by the State of New York</p> <p><b>Endorsements:</b></p> <ul style="list-style-type: none"> <li>• Waiver of Subrogation</li> </ul>
<p><b>Commercial General Liability</b></p>	<p>\$1,000,000 per Occurrence \$2,000,000 General Aggregate \$2,000,000 Products/Completed Operations \$1,000,000 Personal/Advertising Injury</p>	<p><b>Form:</b> General Liability Form ISO CG 00 01 or equivalent</p> <p><b>Endorsements:</b></p> <ul style="list-style-type: none"> <li>• NYCHA Named or Included as Additional Insured</li> <li>• Waiver of Subrogation</li> <li>• Primary &amp; Non-Contributory Clause</li> </ul>
<p><b>Business Auto Liability</b></p> <p>Requirement may be waived if no vehicles will be operated on or from NYCHA premises and no vehicles will be used to transport NYCHA staff, residents or others on NYCHA's behalf.</p>	<p>\$1,000,000 Combined Single Limit of Liability for Bodily Injury &amp; Property Damage</p>	<p><b>Form:</b> Business Auto Form CA 00 01 or equivalent</p> <p><b>Endorsements:</b></p> <ul style="list-style-type: none"> <li>• NYCHA Named or Included as Additional Insured</li> <li>• Waiver of Subrogation</li> </ul>
<p><b>Professional Liability</b></p>	<p>\$1,000,000 Each Claim \$2,000,000 Aggregate</p>	<p><b>Form:</b> Claims-made form</p>
<p><b>Network Security &amp; Privacy Liability</b></p>	<p>\$1,000,000 Each Claim \$1,000,000 Aggregate</p>	<p><b>Endorsements:</b></p> <ul style="list-style-type: none"> <li>• NYCHA Named or Included as Additional Insured</li> </ul>

**(Important! See Additional Insurance Compliance Information on Page #2)**

## NYCHA Insurance Requirements Template 02 – IT, Network & Data Access

### Additional Insurance Compliance Information & Guidance

Complete insurance requirements are included in the contract awarded to the NYCHA contractual partner. It is the sole responsibility of NYCHA's contractual partner to review all requirements with their insurance professionals to confirm the appropriate insurance is in place as required by the contract. In the event of a conflict between the below and any provisions of the contract, including general conditions therein, the terms of the contract shall prevail.

### Warning – Assumption of Risk

Under the terms and conditions of the contract, NYCHA's contractual partners may be financially responsible to defend, indemnify and/or hold NYCHA and certain other entities in contract with NYCHA harmless from certain costs resulting from claims arising out of or in any way related to the services provided to NYCHA, whether or not covered by insurance. It is the sole responsibility of NYCHA's contractual partner to review these requirements with legal counsel prior to signing a contract.

### Additional Insurance Requirements:

1. **Covered Operations** – Insurance policies may not exclude claims arising from any activity, scope of work or permitted use provided for under the contract.
2. **Liability Policies - New York Labor Law / Employers' Liability Over-Action** - Liability Policies must include industry standard provisions related to the severability of interests and/or separation of insureds and rights of crossclaim. Policies may not exclude claims for bodily injury asserted against NYCHA by an employee or agent of the insured or any subcontractor of the insured, commonly known as "over-actions" or "NY Labor Law" claims.
3. **Insurers** - Policies must be placed with insurers authorized do business in the State of New York with a minimum AM Best Rating of "A- VII"
4. **Blanket Terms & Conditions** - Required Policy Terms & Conditions such as Additional Insured, Waiver of Subrogation and Primary/Non-Contributory Insurance can be satisfied by blanket policy provisions.
5. **Proof of Insurance** – General/Prime/Direct Contractors or contractual partners shall submit evidence of insurance as and when directed by NYCHA. Subcontractors shall submit evidence of insurance to the General/Prime/Direct Contractor, who shall deliver the same to NYCHA upon request. Failure of NYCHA to monitor compliance with any of these requirements is not a waiver of any requirement.
6. **Failure to Comply** - may result in default/breach of contract, withholding of payments to contractors/vendors, removal proceedings against lessees, licensees or other occupants of NYCHA premises, and additional remedies available to NYCHA under contract, at law, or in equity.



**EXHIBIT 2**

**SAMPLE AGREEMENT**



this Agreement. Any modification, amendment, or supplement to this Agreement is not valid or enforceable against either Party unless it is in writing and signed by an authorized representative of each Party.

1.3 This Agreement incorporates the following exhibits (the “**Exhibits**”), which are attached hereto and made a part hereof:

- 1.3.1 **Exhibit 1**: Scope of Services;
- 1.3.2 **Exhibit 2**: Cost Proposal/BAFO;
- 1.3.3 **Exhibit 3**: NYCHA General Terms and Conditions;
- 1.3.4 **Exhibit 4**: Contracting With Minority and Women-Owned Business Enterprises;
- 1.3.5 **Exhibit 4-A**: Consultant’s M/WBE Utilization Plan [or Waiver if applicable]; and
- 1.3.6 **Exhibit 5**: the following NYCHA Policies:
  - A. General Rules of Behavior for On-Site Consultants;
  - B. Sexual Harassment Policy Statement;
  - C. Privacy Policy;
  - D. Internet Policy;
  - E. NYCHA Health and Safety Requirements; and

1.4 The RFP and Proposal are both incorporated by reference into this Agreement as if fully attached hereto and both parties confirm having complete copies of thereof.

1.5 In the event of any conflict in language among the Articles contained in the body of this Agreement and the Exhibits, the following order of precedence shall apply:

- 1.5.1 the body of this Agreement; then
- 1.5.2 **Exhibit 3** (NYCHA General Terms and Conditions); then
- 1.5.3 **Exhibit 5** (NYCHA Policies); then
- 1.5.4 **Exhibit 1** (Scope of Services); then
- 1.5.5 the RFP (incorporated by reference); then
- 1.5.6 **Exhibit 2** (Cost Proposal/BAFO); then
- 1.5.7 **Exhibit 4** (Contracting With Minority and Women-Owned Business Enterprises); then
- 1.5.8 **Exhibit 4-A** (Consultant’s M/WBE Utilization Plan [or Waiver if applicable]); and then
- 1.5.9 the Proposal (incorporated by reference).

**ARTICLE 2                    TERM OF AGREEMENT**

2.1 The initial term of the Agreement shall be a three (3) year (the “**Initial Term**”). Immediately following the expiration of the Initial Term, (a) NYCHA at its discretion may renew the Agreement for two (2) consecutive one-year renewal periods (each a “**Renewal Period**”) by providing written notice to the Consultant prior to the expiration of the Initial Term or, if applicable, the Renewal Period then in effect, of its intent to renew the Agreement, and (b) the Agreement shall automatically terminate at the expiration of the Initial Term or final Renewal Period, as applicable, if not terminated earlier pursuant to the preceding subsection (a) or pursuant to any early termination rights (breach, convenience or otherwise) set forth in the Agreement. The Initial Term, together with the Renewal Periods, is referred to herein as the “**Term**.” The cost for the Services to be performed during the Renewal Period(s) shall be the price(s) set forth in the Consultant’s Cost Proposal.

2.2 Any rights, obligations and remedies of either Party arising out of or in connection with any event or condition that occurs during the Term of this Agreement shall survive any expiration or termination of this Agreement by the Parties. In addition to the foregoing, and ARTICLE 9.2 below, the following provisions of the NYCHA General Terms and Conditions (**Exhibit 3**) shall specifically survive any expiration or termination of this Agreement by the Parties:

- 2.2.1 Section 11 (Indemnification);
- 2.2.2 Section 12 (Defense and Settlement of Matters to Which Indemnity Provisions Apply);
- 2.2.3 Section 14 (Right to Audit; Maintenance of Books and Records);
- 2.2.4 Section 15 (Ownership of Work);
- 2.2.5 Section 16 (Promotional Literature);
- 2.2.6 Section 17 (Confidentiality);
- 2.2.7 Section 25 (New York Law);
- 2.2.8 Section 26 (Limitation of Actions; Waiver of Trial by Jury; and
- 2.2.9 Section 27 (Damages).

### **ARTICLE 3 SCOPE OF SERVICES**

3.1 During the Term of this Agreement, the Consultant shall perform all Services set forth within **Exhibit 1** in accordance with the terms and conditions of this Agreement and consistent with the Consultant’s Proposal. The Consultant shall coordinate the performance of all Services with NYCHA’s representative designated in ARTICLE 7.1 below (“**NYCHA’s Representative**”) or his/her designee.

### **ARTICLE 4 COMPENSATION AND PAYMENT**

4.1 As full consideration for the Consultant’s performance of the Services, NYCHA will compensate the Consultant in accordance with this ARTICLE 4. In no event, however, will NYCHA pay the Consultant more than \$[\_\_\_\_\_] in connection with this Agreement (the “**Maximum Fee**”).

4.2 NYCHA shall compensate Consultant [\_\_\_\_\_], as set forth herein and in the [Cost Proposal/BAFO] (**Exhibit 2**).

4.3 As a condition for payment, the Consultant must email [e.g. monthly/quarterly] invoices and supporting documentation, as attachments, to [invoice@nycha.nyc.gov](mailto:invoice@nycha.nyc.gov) in PDF, JPEG, Excel, Word, TIF or BMP file format. The subject line of the email must state the Consultant name and Purchase Order (“PO”) number. Invoices and supporting documentation must be on Consultant letterhead and include the date of the invoice, an invoice number, and the PO number. Invoices must also include: a detailed description of the invoiced Services; Service location(s); quantities; date(s) Services were performed; the release number (when applicable); and the amount due and gross amount (when applicable). NYCHA will not compensate Consultant for sums included in invoices that are not properly itemized, or that contain quantities and/or prices which are inconsistent with this Agreement and/or the PO. Consultant shall provide NYCHA with any additional information and documentation reasonably requested by NYCHA in order to process the invoice and issue payment.

4.4 Any disputed charges by either Party under this Agreement shall not affect payment of non-disputed charges.

4.5 Sales and Use Tax.

4.5.1 The Consultant acknowledges that **NYCHA has tax-exempt status and accordingly, will not pay any type of tax from which it is exempt in any form, including, without limitation, New York State sales and use tax.** Consultant shall not submit to NYCHA any invoice which directly charges NYCHA a tax to be remitted by Consultant directly to a taxing authority. Furthermore, NYCHA shall not reimburse Consultant for taxes paid by Consultant in connection with the purchase of tangible personal property which becomes an integral component of a NYCHA structure, building, or real property. See NYCHA’s Tax Exemption Letter for more tax exemption information that may be applicable to Consultant.

4.5.2 However, if expressly permitted by this Agreement, Consultant may include in the invoices it submits to NYCHA for reimbursement, taxes paid by Consultant to a third-party during the course of performing Services pursuant to this Agreement. Under no circumstance will Consultant be permitted to invoice NYCHA for taxes paid to a third-party if this Agreement provides that the fixed unit prices or payments payable by NYCHA for the Services are inclusive of the Consultant’s taxes.

4.5.3 The Consultant shall inform its subconsultants of this exemption and shall advise its subconsultants to exclude sales and use taxes from their bids and proposals, as applicable.

4.6 NYCHA will not pay any interest, finance charge, late charge or penalty with respect to any payments under this Agreement.

4.7 Unless expressly allowed pursuant to the terms of the RFP, in no event shall the Consultant be compensated for travel expenses or costs in connection with this Agreement.

**ARTICLE 5                   CONSULTANT AS AN INDEPENDENT CONTRACTOR**

5.1 In performing the Services, the Consultant will have the status of an independent contractor without the power to act as agent for, or otherwise bind, NYCHA without NYCHA’s written consent. Neither the Consultant nor its employees will represent themselves to be, or be deemed to be, employees or agents of NYCHA. The Consultant will be solely responsible for payment of all compensation owed to its own employees, as well as payment of all employment-related and other similar taxes and liabilities incurred by the Consultant.

**ARTICLE 6 CONTRACTING WITH MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES**

6.1 In furtherance of Sections 18 and 34 of the NYCHA General Terms and Conditions (**Exhibit 3**), the specific numerical requirements for New York City Department of Small Business Services (“SBS”) certified minority-owned business enterprises (“MBEs”) and women-owned business enterprises (“WBEs”) (collectively, “M/WBEs”) participation in this Agreement are set forth within the Contracting with Minority and Women-Owned Business Enterprise requirements (**Exhibit 4**).

6.2 The Consultant must comply with and fulfill all applicable M/WBE requirements: (a) as set forth in Section 34 of the NYCHA General Terms and Conditions (**Exhibit 3**), (b) as set forth in **Exhibit 4**, and (c) in accordance with the Consultant’s “M/WBE Utilization Plan” [or Waiver if applicable] (**Exhibit 4-A**).

**ARTICLE 7 NOTICES**

7.1 For coordination purposes, any notice or other communication, including a change of address or of the person to be notified (but not including Invoices, notices related to Section 3 compliance and/or other resident hiring compliance or requirements, or routine correspondence relating to performance of the Services, which may be sent via e-mail) given under this Agreement to any Party must be in writing and must be sent by hand or overnight mail service, or registered or certified United States mail, return receipt requested, to the attention of the Parties at the respective addresses set forth below:

to the Consultant: [\_\_\_\_\_]
[\_\_\_\_\_]
Attn: [\_\_\_\_\_]
[\_\_\_\_\_]

to NYCHA’s Representative: New York City Housing Authority
[\_\_\_\_\_]
[\_\_\_\_\_]
New York, New York 10007
Attn: [\_\_\_\_\_]
[\_\_\_\_\_]

with a copy to: New York City Housing Authority
Law Department
90 Church Street, 11<sup>th</sup> Floor
New York, New York 10007
Attn: Deputy General Counsel for Contracts

**ARTICLE 8 FORCE MAJEURE**

8.1 For purposes of this Agreement, “Force Majeure” means an unforeseeable event beyond the control of, and not caused by the fault or negligence of, the affected Party, including, but not limited to: acts of God; acts of civil or military authority; acts of public enemies; war; terrorism; insurrection; governmental action; fires; floods; explosions; pandemics; epidemics; earthquakes; quarantine restrictions; strikes or other work stoppages; or loss or interruption of electrical power or other public utility. If an event of Force Majeure results in a Party’s being unable to perform in full or in part its obligations under this Agreement, that Party shall be excused from whatever performances affected by the Force Majeure event to the extent so affected and to the extent the affected Party used its best efforts, consistent with prudent practices, to perform its obligations under this Agreement and to mitigate the losses to the other Party arising from the event of Force Majeure.

## **ARTICLE 9 NON-COMPETITION; WARRANTY AGAINST NON-COMPETITION**

9.1 The Consultant represents and warrants that to its best knowledge and belief each of its employees assigned to perform any of the Services pursuant to this Agreement is not in breach of any covenant or obligation not to compete with any former employer by reason of that employee’s performance of Services. In the event that any such employee or subcontractor is prevented from performing Services by reason of such a covenant or obligation not to compete with a former employer, such employee or subcontractor must be informed by the Consultant that he/she must obtain a release from such former employer before performing any of the Services pursuant to this Agreement.

9.2 The Consultant agrees to indemnify and shall hold harmless NYCHA, its Chair and Chief Executive Officer, Vice-Chair and Members (collectively, the “**Members**”), officers and employees, in their capacity as Members, officers and employees, from and against every damage, expense, fee, and cost, including, without limitation, all reasonable sums charged to associated litigation, including reasonable attorneys’ fees, which may be incurred by NYCHA in any action by a third party against NYCHA or against anyone assigned by the Consultant to perform Services for NYCHA hereunder for breach by an employee or subcontractor of any non-competition clause or covenant or obligation not to compete in any agreement entered into by the employee or subcontractor and any former employer, where the Consultant knew or should have known of such clause or covenant or obligation not to compete.

## **ARTICLE 10 NYCHA’S RELATED PARTIES**

10.1 For purposes of this Agreement, the term, “NYCHA Related Party” shall include any entity or individual for whom, pursuant to contract or law, NYCHA has an obligation to defend, indemnify and/or hold harmless from “**Indemnified Losses**” (as defined in Section 11 of the NYCHA General Terms and Conditions) arising out of the Services including, without limitation, NYCHA’s agents, Members (as defined in Section 6 of the NYCHA General Terms and Conditions), employees, successors, assigns, business and government affiliates and partners.

## **ARTICLE 11 REPLACEMENT OF PERSONNEL**

11.1 NYCHA reserves the right, at its discretion, to request a replacement of any employee or subcontractor assigned by the Consultant to perform the Services under this Agreement, and if NYCHA makes such a request, the Consultant must within three business days make such a replacement. The Consultant must submit such information regarding the experience and qualifications of the persons it proposes to substitute as may be required by NYCHA, and such substitution, whether or not made at NYCHA’s request, is subject to the prior written consent of NYCHA.

## **ARTICLE 12 COMPLIANCE WITH NYCHA PROCEDURES AND POLICIES**

12.1 The Consultant will abide by the following NYCHA standard procedures governing on-site behavior and conduct: (a) *General Rules of Behavior for On-Site Consultants*; (b) *Sexual Harassment Policy Statement*; (c) *Privacy Policy*; (d) *Internet Policy*; (e) *NYCHA Health and Safety Requirements*, which are attached within **Exhibit 5** and are made a part hereof, and (f) all such other internal NYCHA policies and procedures related to the performance of the Services, and/or health and safety protocols, and as same may be amended by NYCHA from time-to-time. For purposes of clarity, NYCHA's Health and Safety Requirements shall be in addition to any other health and safety law, rule, regulation or order that is binding on Consultant or applicable to Consultant's performance of the Services.

#### **ARTICLE 13 CUMULATIVE REMEDIES**

13.1 The remedies provided for herein shall be cumulative and shall not preclude the assertion by any Party of any other rights such Party may have under applicable law or otherwise, unless otherwise limited elsewhere in this Agreement.

#### **ARTICLE 14 ALL LEGAL PROVISIONS DEEMED INCLUDED**

14.1 Each and every applicable provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision or clause is not inserted, or is not correctly inserted, then upon the request of either Party, this Agreement shall be amended to make such insertion or correction, without prejudice to either Party hereunder.

#### **ARTICLE 15 ASSISTANCE TO NYCHA**

15.1 If any claim by a third party is made or any action is brought against NYCHA relating to this Agreement, the Consultant must provide, and must cause its subconsultants and/or subcontractors to provide, NYCHA with all assistance that may be requested by NYCHA in defense of such claim or action.

#### **ARTICLE 16 NO WAIVER**

16.1 The failure of either Party to exercise in any respect any right provided for herein shall not be deemed a waiver of any right hereunder.

#### **ARTICLE 17 FUTURE CONTRACTS AND CONSIDERATION**

17.1 The Consultant is aware that NYCHA is subject to various procurement statutes, regulations and rules and acknowledges that it is not, by virtue of entering into this Agreement, guaranteed any future contracts or consideration by NYCHA except to the extent permissible under applicable statutes, regulations and rules may allow.

#### **ARTICLE 18 HEADINGS**

18.1 The descriptive headings used in this Agreement are for purposes of convenience only and do not constitute a part of this Agreement.

#### **ARTICLE 19 COUNTERPARTS**

19.1 This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same Agreement. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such



signature shall create a valid and binding obligation of the Party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or “.pdf” signature page were an original thereof.

**ARTICLE 20                    AUTHORITY OF SIGNATORY**

20.1 Each of the Parties represents and warrants to the other that the person executing this Agreement on behalf of such Party has the full right, power and authority to enter into and execute this Agreement on such Party’s behalf and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

(SIGNATURES ON FOLLOWING PAGES)

SIGNATURE PAGE TO NYCHA-[\_\_\_\_\_ ] AGREEMENT

**IN WITNESS WHEREOF**, the New York City Housing Authority, with intent to be legally bound as of the Effective Date, has caused this Agreement to be executed by its duly authorized officer as set forth below.

**NEW YORK CITY HOUSING AUTHORITY**

By: \_\_\_\_\_

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

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

Date Signed (MM/DD/YEAR): \_\_\_\_/\_\_\_\_/202\_\_

SIGNATURE PAGE TO NYCHA-[\_\_\_\_\_] AGREEMENT

**IN WITNESS WHEREOF**, [\_\_\_\_\_], with intent to be legally bound as of the Effective Date, has caused this Agreement to be executed by its duly authorized officer as set forth below.

[\_\_\_\_\_]

By: \_\_\_\_\_

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

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

Date Signed (MM/DD/YEAR): \_\_\_\_/\_\_\_\_/202\_\_

**EXHIBIT 1**

**SCOPE OF SERVICES**

**[TO BE INSERTED PRIOR TO AGREEMENT AWARD]**

**EXHIBIT 2**

**[COST PROPOSAL/BAFO]**

**[TO BE INSERTED PRIOR TO AGREEMENT AWARD]**

**EXHIBIT 3**

**NYCHA GENERAL TERMS & CONDITIONS**

**EXHIBIT 4**

**CONTRACTING WITH MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES**

**[TO BE INSERTED PRIOR TO AGREEMENT AWARD TAKEN FROM RFP]**

**EXHIBIT 4-A**

**CONSULTANT'S M/WBE UTILIZATION PLAN AND/ OR WAIVER/ PARTIAL WAIVER**

**[TO BE INSERTED PRIOR TO AGREEMENT AWARD]**



**EXHIBIT 5**  
**NYCHA POLICIES**

**GENERAL RULES OF BEHAVIOR FOR ON-SITE CONSULTANTS**

**NEW YORK CITY HOUSING AUTHORITY  
EXECUTIVE DEPARTMENT**

**MEMORANDUM**

**OGM200802**

**TO: Distribution C**  
**FROM:** Douglas Apple, General Manager  
**DATE:** July 28, 2008  
**SUBJECT: General Rules of Behavior for On-Site Consultants**

---

**General**

1. The provisions of these General Rules of Behavior for Contractors/Vendors are intended to govern the behavior of contractors, vendors and consultants (collectively “**consultants**”) and their staff when performing work on NYCHA premises, often alongside NYCHA’s own staff who are subject to similar rules of behavior in the performance of their duties. In general these rules supplement those specified in the General Terms and Conditions of the consultant’s contract; in the case of any discrepancy between these Rules and the General Terms and Conditions, the latter shall apply.
2. NYCHA Contract Administrators are responsible for monitoring the on-site behavior of their consultants and consultant staff working on NYCHA premises, and enforcing these general rules of behavior.

**Performance:** Consultants and their employees shall not:

1. Fail to comply with these General Rules of Behavior.
2. Refuse, fail or neglect to follow a reasonable directive or order of a NYCHA supervisor or interfere with any person carrying out such directive or order.
3. Use abusive, profane or offensive language or gestures directed at any employee or resident of NYCHA or any member of the public while on duty.
4. Be under the influence of or in possession of alcoholic beverages, except in unopened, sealed containers, during working hours.
5. Engage in private activity that may be reasonably construed as constituting official action of NYCHA, without the consent of NYCHA.
6. Fail to carry a valid NYCHA-issued identification card during work hours or fail to display it upon request.

7. Fail to use the Kronos timekeeping system, if required to do so based on job assignment.
8. Remain on NYCHA premises after their regular working hours unless authorized to do so.
9. Wear attire that is unsuitable for a business environment or wear clothing that displays messages that may be viewed as offensive to others.
10. Smoke inside any building or vehicle owned, operated or leased by NYCHA or within any outdoor area used as a playground area or used by any child day care center at any NYCHA development.
11. Use NYCHA's Mail Center for personal correspondence or personal packages.
12. Post or hang any unauthorized notices or posters on NYCHA property.

**Conduct:** Consultants and their employees shall not:

1. Fail to adhere to the requirements of NYCHA's Equal Employment Opportunity Policy Statement or NYCHA's Sexual Harassment Policy Statement.
2. Accept or give any valuable gift or gratuity or a combination thereof from any resident or NYCHA employee.
3. Engage in any activity unrelated to the consultant's contract on NYCHA time utilizing NYCHA equipment.
4. Use NYCHA resources, such as staff or letterhead, for any non-NYCHA purpose.
5. Enter into any personal business or financial relationship with any NYCHA employee that has not been approved by NYCHA.
6. Solicit contributions or payments, or sell goods or services for private gain, on or adjacent to NYCHA property, except as authorized by NYCHA.
7. Fail to report directly and without delay, to the Office of the Inspector General or the New York City Department of Investigation conduct that they know to involve corrupt or other criminal activity by any officer or employee of NYCHA.
8. Possess, sell or use any controlled substance on or off duty, except with the written approval of a licensed physician and then only if the use of such substance will not interfere with the proper performance of his/her duties.
9. Possess or display any firearm or any other type of weapon, or use any object as a weapon on NYCHA premises or in its vehicles.
10. Engage in illegal gambling in any form on or within any building, grounds or vehicle owned, operated or leased by NYCHA.

11. Strike, attempt to strike or threaten any NYCHA employee, applicant or resident of NYCHA.
12. Intentionally damage, tamper or interfere with the property of NYCHA, or of any employee, resident, or contractor of NYCHA.

**Use of NYCHA Equipment and Property:** Consultants shall not:

1. Violate NYCHA's Communications and Business Systems Policy relating to the use of computers, the Internet, telephones, voice mail, answering machines, facsimile (fax) machines, electronic mail and photocopiers; or remove from any NYCHA premises/facility any official records, files or documents of NYCHA without the express permission of NYCHA.
2. Operate, borrow, remove, use or permit to be operated, borrowed, removed or used, any NYCHA vehicle, equipment, property or supplies without proper authorization.
3. Fail to use reasonable care in the operation, use and maintenance of NYCHA vehicles, equipment, property or supplies.
4. If authorized in writing to use NYCHA vehicles, neglect or fail to use all appropriate safety measures while operating NYCHA vehicles or equipment in performance of their duties.
5. Fail to report promptly to a NYCHA supervisor any damages to or loss of NYCHA vehicles, equipment, property or supplies.

**SEXUAL HARASSMENT POLICY STATEMENT**



## SEXUAL HARASSMENT PREVENTION POLICY STATEMENT

---

It is the policy of the New York City Housing Authority to ensure that all employees and residents are able to enjoy an atmosphere free from sexual harassment as well as an atmosphere free from any inappropriate, unprofessional or unwelcome behavior of a sexual nature by NYCHA employees or others working at a NYCHA owned or operated location, including consultants and contractors. All NYCHA employees, as well as others who work at NYCHA owned or operated locations, should familiarize themselves with the guidelines in this policy so they will understand what type of conduct is prohibited, and know the remedies available to employees, contractors or consultants who experience sexual harassment. This policy statement supersedes all prior policy statements on this subject.

Sexual harassment is a form of employment discrimination based on gender and is prohibited by law. NYCHA will not tolerate sexual harassment in the workplace.

The United States Equal Employment Opportunity Commission defines sexual harassment as unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature. Such conduct constitutes sexual harassment when:

- Submission to such conduct is either explicitly or implicitly made a term or condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as a basis for employment decisions; or
- Such conduct has the effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Sexual harassment may include a broad range of subtle and not so subtle behaviors. Examples of employee behavior in violation of this policy, which are by no means exhaustive, include the following:

- unwanted sexual advances;
- subtle or overt pressure for sexual favors; sexual jokes;
- unwanted flirtations, innuendoes, advances or propositions;
- verbal abuse of a sexual nature;
- graphic commentary about an individual's body, sexual prowess or sexual deficiencies;
- leering, whistling, touching, pinching, assault, coerced sexual acts, or suggestive, insulting or obscene comments or gestures; and
- the display in the workplace of sexually suggestive objects or pictures including through the use of e-mail communications.

These types of behaviors are prohibited both in the actual workplace and in any location that can reasonably be regarded as an extension of the workplace, such as at an off-site NYCHA sanctioned function.



This policy is not meant to interfere with voluntary social relationships between individuals in the workplace, but this policy does prohibit those actions and behaviors that are unwanted and unwelcome, and/or which create an intimidating, offensive, or hostile work environment.

Any manager or supervisor who receives a complaint of sexual harassment or becomes aware of sexually harassing conduct **must** immediately report this information to the Department of Equal Opportunity (DEO). Supervisors are not to engage in any independent investigation of the complaint of discrimination. Failure to comply with these requirements may result in disciplinary action against the manager or supervisor.

All persons who work at NYCHA owned or operated locations should work to maintain an atmosphere of respect and nondiscrimination, and to promote understanding among co-workers. Managers and supervisors are directed to make all employment decisions in accordance with this policy, and to ensure compliance with this policy in their areas of responsibility. NYCHA encourages all employees to immediately report any allegation of sexual harassment or sexually harassing behaviors they become aware of to the NYCHA Department of Equal Opportunity.

#### WHERE TO FILE OR REPORT A COMPLAINT OR TO SEEK ASSISTANCE WITH AN EEO MATTER

If you believe that you, a co-worker or a job applicant is a victim of discrimination, you should immediately report the conduct to:



**NEW YORK CITY HOUSING AUTHORITY  
DEPARTMENT OF EQUAL OPPORTUNITY  
OFFICE OF EMPLOYMENT & FAIR HOUSING INVESTIGATIONS (OEFHI)  
90 CHURCH STREET, 6th FLOOR  
NEW YORK, NEW YORK 10007  
212-306-4468  
[deo@nycha.nyc.gov](mailto:deo@nycha.nyc.gov)**

The OEFHI personnel listed below are available to provide assistance on Monday through Friday from 8:30 AM to 5:00 PM.

Celeste T. Segure, Director	(212) 306-4633
Maurice Q. Robinson, Assistant Director   EEO Officer	(212) 306-4467
Maria Ortega-Lobos, Equal Employment & Fair Housing Analyst	(212) 306-4628
Saba Maher, Equal Employment & Fair Housing Analyst	(212) 306-3038
Valerie Adams-Baker, Equal Employment & Fair Housing Analyst	(212) 306-2813
DEO Facsimile	(212) 306-4439
TTY (Hearing Impaired)	(212) 306-4845

An employee or job applicant may file an internal complaint of discrimination with DEO anytime within one year of the date the incident occurred. A NYCHA employee or job applicant may electronically file a NYCHA Complaint of Alleged Discrimination (**NYCHA Form 036.025 (Rev. 2/6/20)**). OEFHI personnel will meet with any employee who seeks to file a complaint to ascertain whether the complaint involves an allegation of employment discrimination prior to commencing a formal investigation. workplace or conduct that violates this policy.





An employee may report employment discrimination to DEO without revealing her/his identity by telephoning or writing to any of the OEFHI personnel listed above. In cases where DEO receives an anonymous complaint, DEO will review and investigate the anonymous complaint, to the extent possible, and recommend corrective action where appropriate to remedy any unlawful discrimination in the workplace or conduct that violates this policy.

DEO understands that these matters can be extremely sensitive, and DEO will keep employee and applicant internal complaints and communications in confidence, except when disclosure is required by law, or is needed to complete an investigation. This means that information obtained from a person who seeks assistance from DEO will not be discussed with other personnel except as necessary to investigate or resolve the complaint.

All complaints filed by employees and applicants for employment will be impartially and fairly investigated. The complainant and named respondent(s) to the complaint of discrimination will receive written notification that an internal complaint has been filed with DEO, and all parties to the complaint will be provided with an opportunity to respond. Both parties to the complaint will be advised of the right to enter into a voluntary written agreement to resolve the complaint of discrimination, and that such voluntary agreement will constitute the final disposition of the complaint.

All persons interviewed in the course of an investigation shall have the right to be accompanied by an appropriate representative of their choosing, who shall not participate in the interview. Advance notice shall be given to DEO.

This policy prohibits retaliation against an employee who uses the DEO internal complaint procedures, or files a complaint with any governmental human rights agency, or commences litigation under applicable anti-discrimination laws. This policy also prohibits retaliation against employees for providing information related to, or assisting in, the investigation of complaints of discrimination and/or harassment, or for voicing opposition to unlawful discrimination. Retaliation or discriminatory harassment is unlawful and will be cause for disciplinary action and subject the perpetrator to liability under law.

At the conclusion of the investigation, DEO will provide written notification of its findings to the complainant and respondent. DEO will also provide the relevant department leadership with written notification of DEO's findings along with any recommendation for corrective action where appropriate. DEO may recommend corrective action, including disciplinary action, with respect to persons whom it finds to have engaged in unlawful discrimination, violated Housing Authority policies, or engaged in unprofessional or inappropriate conduct.

Employees found to be in violation of this policy and/or laws prohibiting employment discrimination and/or retaliation may be subject to disciplinary action and/or liability under law. Monetary and civil penalties may be awarded for violations under applicable laws.

Any employee who wants further information or requires assistance in identifying employment discrimination and ways to prevent employment discrimination, should contact the DEO at the address and telephone numbers listed above.

This policy statement supersedes all prior policy statements on this subject.



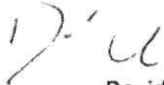

**PRIVACY POLICY**

**NYCHA STANDARD PROCEDURE MANUAL**

**SP 002:12:1, NYCHA PRIVACY POLICY**

**TABLE OF CONTENTS**

I. PURPOSE .....	1
II. POLICY.....	1
III. APPLICABILITY.....	1
IV. DEFINITIONS .....	2
V. SAFEGUARDING PERSONALLY IDENTIFIABLE INFORMATION .....	3
VI. DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION.....	5
VII. REPORTING A PRIVACY INCIDENT.....	5
VIII. REVIEW/REVISION HISTORY PAGE.....	7

SUBJECT	ADMINISTERING DEPARTMENT	APPROVED DATE	APPROVED BY	INDEX NO.
NYCHA PRIVACY POLICY	LAW	Issued June 7, 2012 Revised December 23, 2014  Date: <u>2/12/17</u>	 David Farber Executive Vice-President for Legal Affairs and General Counsel   Michael Kelly General Manager and Chief Operating Officer	002:12:1

## I. PURPOSE

The purpose of this Standard Procedure is to provide instructions to New York City Housing Authority (NYCHA) employees, consultants, and contractors/vendors regarding the handling, safeguarding, and disclosure of Personally Identifiable Information (PII) and the use of NYCHA's resources. This procedure also establishes the role of the Chief Privacy Officer.

## II. POLICY

All NYCHA employees, consultants, and contractors/vendors must protect the confidentiality of PII obtained from employees, public housing residents/applicants, Section 8 participants/applicants, and third parties such as employers, contractors/vendors, and government agencies.

Some relevant statutes, regulations and guidance regarding NYCHA's confidentiality obligations include N.Y. Pub. Hous. Law § 159, N.Y. Pub. Off. Law § 96, the federal Violence Against Women Act, the federal Privacy Act (5 U.S.C. § 552a), PIH-2015-06, and OMB M-07-16.

## III. APPLICABILITY

This Standard Procedure applies to:

- A. All NYCHA employees, consultants, and contractors/vendors at all NYCHA departments/offices/developments in their handling of PII.
- B. PII found in various places, including, but not limited to, resident, applicant, or employment applications (electronic or paper); NYCHA owned or operated database systems (e.g., Siebel, Maximo, Primavera, and HRdb); and database systems licensed to NYCHA (e.g., Lexis-Nexis and Westlaw).
- C. PII found in any form (including, but not limited to, paper, electronic documents, email, backup tapes, images, audio, video, CD/DVD, microfilm) created, collected, accessed,

## NYCHA STANDARD PROCEDURE MANUAL

used, handled, stored, managed, or disposed of during the course of conducting NYCHA business.

### IV. DEFINITIONS

#### A. Personally Identifiable Information (PII)

PII is defined in OMB-07-16 as "information which can be used to distinguish or trace an individual's identity, such as their name, social security number, and biometric records etc., alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc."

PII includes, but is not limited to:

1. An individual's name (first name or first initial and last name), social security number, e-mail address, phone number, address, driver license number or state ID number, passport number, alien registration number, financial account number, or biometric information such as DNA, fingerprint, and photographic facial images.
2. Any combination of one of the items identified in paragraph IV.A.1. with any of the following items:
  - a. Date of birth
  - b. Place of birth
  - c. Last four digits of social security number
  - d. Mother's maiden name
  - e. Sexual orientation
  - f. Criminal history
  - g. Citizenship or immigration status
  - h. Ethnic or religious information
  - i. Income and/or credit history
  - j. Tax return
  - k. Asset statement

## NYCHA STANDARD PROCEDURE MANUAL

3. Any number, code, or combination of numbers and codes, such as account number, security code, access code, or password allowing access to or use of an individual's financial or credit account.
4. Individually identifiable information created and collected as part of research projects.
5. Health information such as medical records (in hard copy or electronic form).

### B. Sensitive PII

HUD defines sensitive PII as "PII" that when lost, compromised, or disclosed without authorization could substantially harm an individual. Examples of sensitive PII include social security or driver license numbers, medical records, and financial account numbers such as credit or debit card numbers." PIH-2015-06.

## V. SAFEGUARDING PERSONALLY IDENTIFIABLE INFORMATION

### A. Responsibilities for Safeguarding PII

1. All NYCHA employees, consultants, and contractors/vendors must:
  - a. Maintain the confidentiality of PII
  - b. Abide by applicable laws , NYCHA's policies, procedures, and guidelines regarding the handling and safeguarding of PII in:
    - (1) This Standard Procedure
    - (2) Standard Procedure 003:78:1, *Public Access to NYCHA Records*

<b>NOTE:</b>	Violation(s) of this procedure and Standard Procedure 003:78:1, <i>Public Access to NYCHA Records</i> , may result in disciplinary action, up to and including termination. Employment actions may be conducted under the advice and guidance of the Human Resources and Law Departments.
--------------	---

- c. Notify immediately your supervisor if you inadvertently gain access or distribute any PII outside of your normal job duties. Refer to Section VII. of this procedure for guidance regarding handling breaches of PII.
2. NYCHA employees, consultants, and contractors/vendors may not access or distribute PII:
    - a. Regarding residents, applicants, and employees unless required as part of NYCHA job duties

## NYCHA STANDARD PROCEDURE MANUAL

- b. For personal reasons
- c. Outside of NYCHA or NYCHA's systems, including NYCHA's Virtual Private Network (VPN) or authorized remote access, unless advance written approval is granted by a Department/Office Director

### B. Rules for Handling PII

When handling PII, all NYCHA employees, consultants, and contractors/vendors must comply with the following:

1. Collect only what is necessary to accomplish the intended NYCHA business purpose
2. Provide minimum necessary access
3. Disclose only the minimum information necessary
4. Safeguard information in transit
5. Secure physical equipment and resources
6. Safeguard information in storage
7. Dispose of information securely when no longer needed

<p><b>NOTE:</b> All NYCHA employees, consultants, and contractors/vendors must comply with the rules regarding the handling, storing, and disposing of PII in Standard Procedures/General Memoranda (GMs) including, but not limited to:</p> <ul style="list-style-type: none"><li>• S.P. 003:04:1, <i>Baseline Information Security Policy</i></li><li>• S.P. 040:05:2, <i>Enterprise Income Verification (EIV) System Access and Security for Public Housing and Housing Choice Voucher Programs</i></li><li>• GM 3699, <i>Records Retention – Housing Developments</i></li><li>• GM 3718, <i>Tenant Folder</i></li><li>• NYCHA Privacy Breach Response Handbook</li><li>• NYCHA Human Resources Manual</li></ul>
---

8. Visit the Privacy and Information Technology Security Portal on the Intranet on a regular basis. <http://connect/PRI> and <http://connect/IT/Pages/IT-Security.aspx>

## NYCHA STANDARD PROCEDURE MANUAL

### VI. DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION

NYCHA may be required to release information, including PII, if requested by HUD, other federal, state, or local authority, or if required by law. PII may also be requested in a subpoena, search warrant, or other court order, or by researchers seeking access to resident data to support their studies. The Law Department reviews such requests on a case-by-case basis and determines the scope of information to be shared.

NYCHA may share PII with government agencies or entities under an agreement, such as a Memorandum of Understanding (MOU). In addition, NYCHA may disclose PII as part of the City's web-based system that enables authorized users to access multiple data sources through a single point of entry. The Law Department reviews such proposed disclosures on a case-by-case basis and determines the scope of data sharing, if any.

All NYCHA employees, consultants, or contractors/vendors must:

- A. Consult with NYCHA's Law Department for further details and instructions before releasing any PII.
- B. Comply with NYCHA policies regarding the release of PII.
- C. Forward all of the City's web-based system requests or other data requests to the Law Department for review and determination of data to be disclosed, if any. In addition, consult the Law Department before disclosing NYCHA data to a researcher.

### VII. REPORTING A PRIVACY INCIDENT

A privacy incident is a violation or imminent threat of a violation of privacy laws, principles, policies, and practices. It includes loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar terms referring to situations where persons other than authorized users and for an other than authorized purpose have access or potential access to PII whether physical or electronic. Examples of a privacy incident include, but are not limited to, lost or missing Tenant Folder(s); a locked cabinet containing PII has been forced open; or PII is accidentally faxed to the wrong fax number.

All NYCHA employees, consultants, or contractors/vendors must follow the NYCHA Data Breach Reporting Policy in response to a privacy incident or suspected breach as dictated in the NYCHA Privacy Breach Response Handbook.

All employees, consultants, and contractors/vendors must report any suspected or confirmed privacy incident or breach to a supervisor. The supervisor must then report to the Chief Privacy Officer the suspected or confirmed privacy incident or breach of PII. If there are any questions regarding the NYCHA Privacy Policy, the supervisor may contact the Chief Privacy Officer at [Privacy@nycha.nyc.gov](mailto:Privacy@nycha.nyc.gov).



## **NYCHA STANDARD PROCEDURE MANUAL**

Consult the NYCHA Privacy Breach Response Handbook for further instructions.

NYCHA STANDARD PROCEDURE MANUAL

VIII. REVIEW/REVISION HISTORY PAGE

NYCHA PRIVACY POLICY

SP 002:12:1

<b>Review/ Revision</b>	<b>Review/ Revision Date</b>	<b>Sections Amended</b>
1.	12/23/14	Banner
2.	12/23/14	Throughout document replaced "Personally Identifiable Information" with PII.
3.	12/23/14	V. Safeguarding Personally Identifiable Information
4.	12/23/14	VI. Disclosure of Personally Identifiable Information
5.	12/23/14	VII. Reporting Personally Identifiable Information Breach
6.	2/13/17	Banner
7.	2/13/17	II. Policy
8.	2/13/17	IV. Definitions
9.	2/13/17	V. Safeguarding Personally Identifiable Information
10..	2/13/17	VI. Disclosure of Personally Identifiable Information
11.	2/13/17	VII. Reporting A Privacy Incident
12.	3/7/18	V. Safeguarding Personally Identifiable Information

**INTERNET POLICY**

NYCHA STANDARD PROCEDURE MANUAL

SP 003:01:5, INTERNET POLICY

TABLE OF CONTENTS

I. PURPOSE ..... 1

II. POLICY..... 1

III. APPLICABILITY..... 1

IV. DEFINITIONS..... 1

V. REVIEW CYCLE..... 3

VI. RESPONSIBILITIES..... 3

    A. The Information Technology Infrastructure Department..... 3

    B. Enterprise Technology Portfolio Management Department..... 4

    C. NYCHA Chief Privacy Officer..... 4

    D. Department Directors/Location Supervisors..... 4

    E. Users..... 5

VII. PROCEDURE..... 5

    A. Internet Access..... 5

    B. Internet Access/Removal/Reinstatement Request..... 6

    C. Users Guidelines..... 6

    D. Unauthorized Use of Computer Programs or Hardware..... 9

    E. Security Monitoring..... 9

    F. NYCHA Information Systems and Users Privacy..... 9

    G. Private and Confidential Information..... 10

    H. Data Breach Incidents and Reporting..... 10

    I. Users Problems and Questions..... 10

VIII. OUTPUTS, REPORTS, AND RECORDKEEPING..... 11

    A. Outputs..... 11

    B. Reports..... 11

    C. Recordkeeping..... 11

IX. TRAINING REQUIREMENTS..... 12

X. PERFORMANCE METRICS..... 12

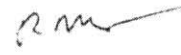
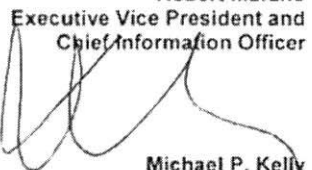
XI. NON-COMPLIANCE..... 12

XII. FORMS..... 12

XIII. WORKFLOW..... 14

XIV. REVIEW/REVISION HISTORY PAGE..... 15

XV. APPENDICES..... 17

SUBJECT	PROCEDURE OWNER	APPROVED DATE	APPROVED BY	INDEX NO.
INTERNET POLICY	INFORMATION TECHNOLOGY INFRASTRUCTURE	Issued May 15, 2001 Revised November 20, 2002 Revised May 2, 2012  Date: <u>9/10/15</u>	  Robert Marano Executive Vice President and Chief Information Officer   Michael P. Kelly General Manager	003:01:5

## I. PURPOSE

This Standard Procedure establishes the New York City Housing Authority's (NYCHA) internet policy. It provides specific instructions for the appropriate use, monitoring, and management of the internet. It explains the responsibilities of all NYCHA employees, consultants, and contractors/vendors for safeguarding NYCHA's information systems from unauthorized access and protecting NYCHA's confidential and sensitive information.

## II. POLICY

It is NYCHA's policy to provide internet access to all authorized employees, consultants, and contractors/vendors to assist them in performing their job responsibilities. All Users shall comply with all other applicable NYCHA and internet policies; federal, state, and local laws and regulations; as well as Standard Procedures 002:12:1, *NYCHA Privacy Policy*, and 004:12:1, *Social Media Policy*.

## III. APPLICABILITY

This Standard Procedure applies to all NYCHA employees, consultants, and contractors/vendors authorized to access, use, or manage the internet.

## IV. DEFINITIONS

### A. Access

The specific permissions that NYCHA grants to Users to read, write and erase files within NYCHA's information systems. Users are granted access only to the information necessary for the performance of their official duties, and may have their access revoked or restricted at any time.

### B. Bandwidth

The transmission capacity of an electronic pathway such as a communication line that an electronic device or system (e.g., a computer network) can handle in a given period of time.

## NYCHA STANDARD PROCEDURE MANUAL

### C. Data Breach

An unauthorized dissemination of information. It may be due to an attack on the network or outright theft of paper documents, portable disks, USB drives of laptops. Sensitive information can also be found in trash cans when reports are carelessly discarded.

### D. Information Systems

NYCHA's systems composed of hardware, software, and computer networks for collecting, storing, and processing data.

### E. Internet Protocol Security (IPSEC)

The internet protocol security system that provides authentication and encryption over the internet and secures everything in the network.

### F. Network

A group of computer systems and other computer hardware devices that are linked together to facilitate communications and resource-sharing among a wide range of users.

### G. Personally Identifiable Information

Information that can be used to distinguish or trace an individual's identity. For more information, see the Privacy Portal at <http://connect/PRI>.

### H. Private and Confidential Information

Information created and maintained within NYCHA's information systems that requires a greater level of protection to prevent loss or inappropriate disclosure. For more information on IT security, see the IT Security Portal at <http://connect/IT/Pages/IT-Security.aspx>.

### I. Proprietary Information

Confidential information that is not public knowledge and that is viewed as the property of the holder.

### J. Shareware

A commercial software that is provided to users for a limited trial basis until it is paid for and registered.

### K. User

A person with authorized access to NYCHA's information systems including permanent or temporary employees, contractors, consultants, clients, vendors, agents, volunteers, any

## NYCHA STANDARD PROCEDURE MANUAL

other outsourced third parties, and service or resource providers.

### V. REVIEW CYCLE

The Enterprise Technology Portfolio Management Department shall review this Standard Procedure every two (2) years and revise as needed.

### VI. RESPONSIBILITIES

#### A. The Information Technology Infrastructure Department

1. The Information Technology Infrastructure Department's staff responsibilities include, but are not limited to, the following activities:
  - a. The chief technology officer shall:
    - (1) Ensure that internet access is provided to all authorized NYCHA employees, consultants, and contractors/vendors as needed.
    - (2) Ensure that NYCHA keeps up with technological changes and best practices.
    - (3) Ensure that the Information Technology Infrastructure Department provides technical and operational control for the internet access process.
    - (4) Ensure that visits by Users to restricted sites are blocked and logged automatically by the system.
  - b. The technical queue administrators shall process all requests to add, remove, or reinstate internet access within five (5) business days upon receipt of the completed and approved NYCHA eForm 130.042, *IT Services Request*.
  - c. The Wide Area Network (WAN) chief shall ensure that the WAN group supports its responsibilities as required by this Standard Procedure.
  - d. The WAN group shall:
    - (1) Monitor the transmission of information throughout NYCHA.
    - (2) Review the monthly reports, listed in section VIII.B.1.a. through d., for internet services received from NYCHA's internet service providers (ISPs).
  - e. The Local Area Network (LAN) manager shall:
    - (1) Ensure proper and secure internet access for Users.

## NYCHA STANDARD PROCEDURE MANUAL

- (2) Ensure that the LAN group generates and provides department directors/ location supervisors with the internet usage activity report upon receipt of a written request.

### B. Enterprise Technology Portfolio Management Department

1. The Enterprise Technology Portfolio Management Department's staff responsibilities include, but are not limited, to the following activities:
  - a. The vice-president for the Enterprise Technology Portfolio Management (ETPM) Department shall ensure compliance with this Standard Procedure.
  - b. The chief IT auditor shall:
    - (1) Evaluate and investigate, immediately, in collaboration with the chief privacy officer, all reported privacy or data breach security incidents upon notification.
    - (2) Provide authorization to Users as needed.
  - c. The Enterprise Technology Portfolio Management Department security group shall:
    - (1) Administer NYCHA's internet policy.
    - (2) Review and monitor all information that is distributed through the internet and via email.
    - (3) Distribute Information Technology security awareness newsletters to all employees, as required, to reinforce and support the practices within this procedure to remind them of NYCHA's appropriate and inappropriate internet use.

### C. NYCHA Chief Privacy Officer

The chief privacy officer shall notify the chief IT auditor immediately of all reported, suspected, or confirmed privacy breaches or violations.

### D. Department Directors/Location Supervisors

1. Department directors or location supervisors shall:
  - a. Monitor compliance with this procedure within their location.
  - b. Submit requests for adding, removing, or reinstating internet access for employees from their location.



## NYCHA STANDARD PROCEDURE MANUAL

- c. Submit written requests to the LAN manager for the internet User activity report, as needed.

### E. Users

#### 1. The Users shall:

- a. Take responsibility for activities they initiate using the internet through any NYCHA network.
- b. Notify their supervisors immediately of the arrival time of any inappropriate images/materials.
- c. Notify their supervisors of any suspected or confirmed data or security breach.
- d. Comply also with the following two NYCHA procedures:

(1) Standard Procedure 002:12:1, *NYCHA Privacy Policy*, listed at <http://connect/sites/FRL/Library/SP002121.pdf>

(2) Standard Procedure 004:12:1, *Social Media Policy*, listed at <http://connect/sites/FRL/Library/SP004121.pdf>.

## VII. PROCEDURE

Users may utilize NYCHA's information systems to access the internet to support the timely communication and sharing of information related to NYCHA services and functions, once the Information Technology Department provides them with access.

### A. Internet Access

1. All Users receive internet access upon creation of their LAN identifications. Location directors/supervisors may specially request that the Information Technology Department deny internet access to Users who do not require the use of the internet to perform their job duties when submitting NYCHA eForm 130.042, *IT Services Request*, to the technical queue administrators for LAN access.

<b>NOTE:</b>	Department directors/location supervisors may revoke or restrict the internet access privilege of a User, at any time, with a written justification.
--------------	--

#### 2. Processing LAN Access Request

The Information Technology Department's technical queue administrators process all requests received from department directors/ location supervisors on NYCHA eForm

## NYCHA STANDARD PROCEDURE MANUAL

130.042, *IT Services Request*, for LAN access. Upon receipt of the request, the Information Technology Department's technical queue administrators create the required LAN identification for the applicable employee, consultant, contractor/vendor and also provide them with internet access, unless otherwise mandated by the requesting department director/ location supervisor.

### B. Internet Access/Removal/Reinstatement Request

1. Department directors/location supervisors shall submit NYCHA eForm 130.042, *IT Services Request*, to the Information Technology Department's technical queue administrators to either add, remove, or reinstate internet access.

#### 2. IT Processing Request

Upon receipt of the request, the Information Technology Department's technical queue administrators perform one of the following actions:

- a. Add internet access for authorized employees, consultants, contractors/vendors who were originally denied internet access when the LAN identification was created for them.
- b. Remove internet access from authorized employees, consultants, contractors/vendors who knowingly violate this Standard Procedure.
- c. Reinstate internet access for employees, consultants, contractors/vendors whose previous internet access has been revoked.

#### 3. Accessing Internet Via ISPs

Only NYCHA's authorized ISPs can be used to access the internet through a NYCHA LAN or WAN. Accessing the internet through NYCHA LAN or WAN via any other internet service provider or backdoor accounts is prohibited.

### C. Users Guidelines

#### 1. Appropriate Use of the Internet

Users shall use NYCHA's information systems to access the internet for authorized purposes only.

Appropriate use of the internet includes, but is not limited to, the following activities:

- a. Using the internet for work-related information research.
- b. Accessing and distributing information that is in direct support and relation to NYCHA's business.

## NYCHA STANDARD PROCEDURE MANUAL

- c. Distributing information about topics that are relevant to NYCHA.
- d. Providing authorized information to city, state, and federal agencies.
- e. Informing other employees of new laws, rules, or regulations that may impact NYCHA.
- f. Sharing resources with other city agencies when working on collaborative projects.

<b>NOTE:</b>	Limited personal use of NYCHA's information systems, including NYCHA's email and internet services, is appropriate and expected; however, such use should be kept to a minimum to ensure that it does not interfere with work assignments, and/or job performance, or cause any degradation of network services. For more information, see Standard Procedure 003:15:1, <i>User Responsibilities Policy</i> .
--------------	---

### 2. Inappropriate Use of the Internet

Users shall refrain from using the internet for activities that are unauthorized by this Standard Procedure and all other applicable NYCHA policies.

Inappropriate use of the internet includes, but is not limited to, the following activities:

- a. Using the internet in ways that may negatively affect network performance (e.g., watching videos).
- b. Using the internet knowingly to violate any applicable laws and regulations.
- c. Attempting to circumvent NYCHA's security features which protect NYCHA's network from internet threats and other unauthorized access.
- d. Sharing your log-in user identification (ID) or password with someone else to allow an unauthorized user to access the internet.
- e. Modifying security settings, including Operating System (OS) or Antivirus settings, to allow unauthorized web access or applications.

<b>NOTE:</b>	Users who require access to a specific website or application that is blocked shall contact their immediate supervisors who shall notify the Information Technology Department for authorized access, as appropriate.
--------------	---

- f. Installing any hardware or software on the computer without supervisory permission and prior authorization from the Information Technology Infrastructure Department.

## NYCHA STANDARD PROCEDURE MANUAL

- g. Transmitting proprietary or confidential NYCHA information or information received from third parties on a private/confidential basis, to any unauthorized person.
- h. Using an unauthorized computer program or hardware that may intercept and log traffic passing over NYCHA's network without prior authorization.
- i. Installing any software that may degrade the performance of the entire network.
- j. Distributing copyrighted software programs or documents without proper authorization.
- k. Creating, sending, or disseminating discriminatory, harassing, or threatening messages or images to any employee, resident, contractor, any other person, or entity.
- l. Creating or forwarding chain mail.
- m. Interfering or disrupting network services or equipment by distributing unsolicited advertisements.
- n. Spreading computer worms and viruses through unauthorized entry to any database accessible via the internet or NYCHA's information systems.
- o. Using the internet to conduct private or commercial work for personal gain.
- p. Displaying inappropriate images, documents, or related web sites.
- q. Archiving, storing, distributing, editing, or recording inappropriate materials using NYCHA's network or computing resources.
- r. Visiting gambling sites.
- s. Hyperlinking or pointing NYCHA's websites deliberately to other internet sites containing information or materials that may be inconsistent with or in violation of NYCHA's Privacy Policy.
- t. Downloading any unauthorized shareware programs or files for use without prior authorization from a supervisor.

<b>NOTE:</b>	Unauthorized shareware (freeware) games, movies, music, file sharing programs, and file conversion programs are known as malware attack vectors that may allow Users to gain access to a computer with a malicious code that can infect the computer.  Malware attack vectors may result in systems failure, wasting computer resources, corrupting data, and increasing maintenance costs.
--------------	---

## NYCHA STANDARD PROCEDURE MANUAL

- u. Using too much bandwidth within NYCHA and when connecting to the internet which is a shared finite resource.

Any other use that may interfere with any NYCHA internet user's job responsibilities.

<b>NOTE:</b>	Users who observe others violating this Standard Procedure shall contact IT security at <a href="mailto:itsecurity@nycha.nyc.gov">itsecurity@nycha.nyc.gov</a> .
--------------	--

### D. Unauthorized Use of Computer Programs or Hardware

The use of any unauthorized computer programs or hardware that may adversely affect NYCHA's network is not allowed. Information Technology Department Users who need access to a particular computer program or software for troubleshooting purposes shall obtain prior approval/authorization from the chief technology officer

### E. Security Monitoring

NYCHA has implemented several monitoring systems to prevent unauthorized access to NYCHA's information systems and to detect inappropriate activities.

### F. NYCHA Information Systems and Users Privacy

All the data and information processed, stored, and presented on any NYCHA information system are considered vital property of NYCHA and are maintained in a secure environment. Therefore, Users shall understand that the use of NYCHA's information systems is not private and or/anonymous.

#### 1. Right of Privacy

Users do not have any right of privacy when using NYCHA's information systems, whether for NYCHA's business or personal purposes, at any time.

<b>NOTE:</b>	If Users want their personal activities to remain private, privileged, or confidential, they shall refrain from using NYCHA's information systems for such activities.
--------------	--

#### 2. Files and Information Disclosure

By using NYCHA's information systems, Users consent to the following:

- a. The contents of any file or information that is maintained on any NYCHA information system may be disclosed at any time.
- b. Time spent visiting any sites on the internet is monitored and recorded.

## NYCHA STANDARD PROCEDURE MANUAL

- c. Any information that is distributed through the internet and via e-mail may be monitored and subject to review by the Information Technology Department's Enterprise Technology Portfolio Management security group.

### G. Private and Confidential Information

Information that is created and maintained within NYCHA's information systems including Personally Identifiable Information (PII) is considered private, confidential, and protected. It is essential that all Users comply with all current NYCHA policies regarding the handling, safeguarding, and disclosure of PII.

Confidential information about NYCHA residents, employees, or contractors, including their PII such as social security number, driver's license number, or date of birth may not be transmitted outside of NYCHA (via e-mail, file transfer, or any other method) without an authorized business purpose. Certain authorized transfers are allowed only with the use of proper encrypted channels. Privacy violations, issues, and questions may be reported immediately to the Office of Privacy via e-mail at [Privacy@nycha.nyc.gov](mailto:Privacy@nycha.nyc.gov) or call the Privacy Hotline at (212) 306-3737. Refer to the Privacy and Information Technology Security Portal on the intranet for more information @ <http://connect/PRI>.

### H. Data Breach Incidents and Reporting

A data breach incident may be intentional or unintentional. Data breach incidents may include an attack on the network, the careless disposal of used computer equipment, theft of paper documents, portable disks, USB drives, or laptops. Users shall use due diligence when discarding of reports containing sensitive information to avoid the unauthorized disclosure of sensitive, protected, or confidential data.

Refer to the following additional documents for more information regarding NYCHA's policy on handling and safeguarding private/confidential information and protecting NYCHA's information systems.

1. Standard Procedure 003:04:1, *Baseline Information Security Policy*.
2. Standard Procedure 003:04:2, *Virtual Private Network Policy*.
3. Standard Procedure 003:05:1, *Access Control Policy*.
4. Standard Procedure 003:11:1, *Portable Data Device Issuance, Acceptable Use and Security*.
5. Standard Procedure 003:78:1, *Public Access to NYCHA Records*.
6. NYCHA Human Resources Manual.

### I. Users Problems and Questions

## NYCHA STANDARD PROCEDURE MANUAL

If Users have any questions about this procedure, issues, including internet-related problems/questions, they can contact the NYCHA Service Center by email at [svctr@nycha.nyc.gov](mailto:svctr@nycha.nyc.gov) or by telephone at (212) 306-7000. Users can also contact the NYCHA Service Center and/or IT security at [itsecurity@nycha.nyc.gov](mailto:itsecurity@nycha.nyc.gov) to report security violations.

### VIII. OUTPUTS, REPORTS, AND RECORDKEEPING

#### A. Outputs

1. Internet access is provided, removed, or reinstated as requested by department directors or location supervisors.
2. Users are utilizing the internet in an appropriate and safe manner.

#### B. Reports

1. NYCHA's ISPs provide the Information Technology Department WAN's chief with the following four monthly reports:
  - a. Technical performance report.
  - b. Time Warner average and peak traffic rates report.
  - c. Verizon weekly utilization report.
  - d. Verizon FiOS average and peak traffic rates report.

<b>NOTE:</b>	These reports may not be distributed due to the confidential and restricted information that they contain.
--------------	--

#### 2. Internet Usage Activity Report

The Information Technology Department's LAN group shall generate and submit the internet usage activity report to department directors/location supervisors upon request.

#### C. Recordkeeping

##### 1. The Process and Information Management Department

The director of the Process and Information Management Department (PIMD) shall maintain the internet transactions log for one (1) year for audit purposes within the Information Technology Department's backup archives. This log contains all internet – related activities/transactions.

## NYCHA STANDARD PROCEDURE MANUAL

2. The chief of the Information Technology Department LAN shall:
  - a. Maintain records of the internet technical performance reports issued by NYCHA's ISPs.
  - b. Archive internet performance metrics on average uptime, average utilization, and peak usage time for a thirty (30) day period.

3. The Information Technology Wide Area Network

The chief of the WAN shall retain information about performance metrics of the 90 Church Street overall circuit usage including NYCHA's field offices uptime, average utilization, and peak usage time within a shared directory in the WAN folder.

### IX. TRAINING REQUIREMENTS

Training is not required to implement this procedure.

### X. PERFORMANCE METRICS

- A. Average uptime versus average utilization and peak usage time.
- B. Performance metrics of the 90 Church Street overall circuit usage which tallies the traffic sustained by the IPSEC tunnels that connect the NYCHA field offices uptime, average utilization, and peak usage time.

### XI. NON-COMPLIANCE

- A. Failure to comply with the requirements of this Standard Procedure may result in the following:
  1. Restrictions in the use of NYCHA's information systems.
  2. Loss of internet access privilege.
  3. Disciplinary action that may result in suspensions and/or terminations.

Due to the sensitivity of the data contained on various NYCHA computing platforms, NYCHA evaluates each incident on a case-by-case basis.

### XII. FORMS

The following form is referenced in the procedure:



## NYCHA STANDARD PROCEDURE MANUAL

A. NYCHA eForm 130.042, *IT Services Request*.

**XIII. WORKFLOW**

Intentionally Left Blank

## NYCHA STANDARD PROCEDURE MANUAL

### XIV. REVIEW/REVISION HISTORY PAGE

#### INTERNET POLICY

##### SP 003:01:5

Review/ Revision	Review/ Revision Date	Sections Amended	Description of Change
1.	9/10/15	Page i	Added a Table of Contents to page i.
2.	9/10/15	Banner	Revised to reflect current NYCHA names and titles.
3.	9/10/15	I.	Revised Purpose section.
4.	9/10/15	II.	Revised Policy section.
5.	9/10/15	III.	Revised Applicability section.
6.	9/10/15	IV.	Added a Definitions section.
7.	9/10/15	V.	Added a Review Cycle section.
8.	9/10/15	VI.	Added a Responsibilities section.
9.	9/10/15	VI.	Section revised deleting reference to New York City Comptroller's and Mayoral Directives on Internet Access.
10.	9/10/15	VI.E.1.d.(1).	Added compliance with SP 002:12:1, <i>NYCHA Privacy Policy</i> .
11.	9/10/15	VII.	Added a Procedure section that includes sub-sections for Internet Access, Internet Access/Removal/Reinstatement Request, Users Guidelines, Unauthorized Use of Computer Programs or Hardware, Security Monitoring, NYCHA's information systems and Users Privacy, Private and Confidential Information, Data Breach Incidents and Reporting, and Users Problems and Questions.
12.	9/10/15	VIII.	Added an Outputs, Reports, and Recordkeeping section.
13.	9/10/15	IX.	Added a Training Requirements section.
14.	9/10/15	X.	Added Performance Metrics section.
15.	9/10/15	XI.	Added a Non-Compliance section.
16.	9/10/15	XIII.	Added a Workflow section.
17.	9/10/15	XIV.	Added a Review/Revision History page.
18.	9/10/15	XV.	Added an Appendices section.
19.	11/27/17		Information Technology Department reviewed Standard Procedure, no updates necessary
20.	3/7/18	IV.G.	Updated Privacy Portal hyperlink

## NYCHA STANDARD PROCEDURE MANUAL

21.	3/7/18	VII.G.	Updated Privacy Portal hyperlink
22.	3/7/18	VII.H.5.	Deleted the reference to SP 040:49:2, <i>Confidential Information Relating to Residents, Section 8 Participants, or Applicants</i> and added reference to SP003:78:1, <i>Public Access to NYCHA Records</i>

**XV. APPENDICES**

Intentionally Left Blank

**EXHIBIT 3**

**CONTRACTING WITH MINORITY AND WOMEN-OWNED BUSINESS  
ENTERPRISES**

**CONTRACTING WITH MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES**

**ARTICLE I. M/WBE PROGRAM**

**PART A: PARTICIPATION GOALS**

1. The minority-business enterprise (“**MBE**”) and women-business enterprise (“**WBE**”) participation goals (“**Participation Goals**”) for the Agreement are set forth in this Section 1 and shall be read in conjunction with ARTICLE 6 of the Agreement and Section 34 of the NYCHA General Terms and Conditions.

These Participation Goals are a percentage of the total dollar value of the Agreement (“**Maximum Fee**” or “**Not-to-Exceed Amount**”), or as same may be amended from time-to-time. The Consultant shall achieve the Participation Goals by awarding subcontracts to firms certified with the New York City Department of Small Businesses (“**SBS**”) as MBEs and/or WBEs (collectively, “**M/WBEs**”), and/or by crediting the participation of the Consultant itself toward the Participation Goals if Consultant is a SBS certified MBE, WBE or M/WBE (or qualified joint venture as provided in Section 3 below), unless the Participation Goals have been waived or modified by NYCHA in accordance with Part A, Sections 8 and 9 below, respectively. **M/WMBEs (including Consultant itself) must be certified by SBS in order for the Consultant to credit such firms’ participation toward the Participation Goals. All references to MBEs, WBEs, and M/WBEs in this Exhibit shall mean those firms certified by the SBS unless otherwise indicated.**

The Agreement’s Participation Goals are as follows:

- (a) NYCHA requires that the Consultant subcontract to M/WBEs no less than 30% of the Agreement’s Maximum Fee, except to the extent that the Consultant is a MBE, WBE or M/WBE as addressed immediately below in subsections (b) and (c), or NYCHA grants Consultant a M/WBE Waiver (defined below).
  
- (b) If the Consultant is a MBE or WBE as of the Agreement’s Effective Date it must maintain such status for the greater of either the duration of the Agreement’s Term, or until all work and services being performed thereunder pursuant to a surviving Task Order (if applicable and as defined within the Agreement) are completed, perform no less than 15% of the Agreement’s Maximum Fee, and:
  - i. If the Consultant is an MBE, the Consultant must subcontract no less than 15% of the Agreement’s Maximum Fee to WBEs; and
  - ii. If the Consultant is a WBE, the Consultant must subcontract no less than 15% of the Agreement’s Maximum Fee to MBEs.
  
- (c) If the Consultant is a M/WBE (i.e., both a certified “M” and “W” owned enterprise), the Consultant must choose either status (i.e., either “M” or “W”) to count for itself **and** subcontract no less than 15% of the Agreement’s Maximum Fee to the other category. This selection, along with the Consultant’s broader M/WBE subcontracting plans are set forth in the Consultant’s M/WBE Utilization Plan, which shall be completed and submitted to NYCHA as part of the Consultant’s proposal (“**Proposal**”) and made part of the

Agreement as **Exhibit 4** (“**M/WBE Utilization Plan**”). The Consultant must maintain its M/WBE status for the greater of either the duration of the Agreement’s Term, or until all work and services being performed thereunder pursuant to a surviving Task Order are completed.

- (d) If the Consultant **is not** a M/WBE, MBE or WBE as of the Effective Date, the Consultant must subcontract no less than 15% of the Agreement’s Maximum Fee to MBEs and no less than 15% to WBEs.
- (e) For purposes of fulfilling its Participation Goals, the Consultant can use multiple subconsultants, provided that the aggregate M/WBE subconsultant utilization is no less than 15% MBE and 15% WBE.

2. Consultant agrees that the Participation Goals in Section 1 above are a material term of the Agreement unless such goals are waived or modified in full or in part by NYCHA in accordance with Part A, Sections 8 and 9 below, respectively. If the Consultant requested a “Waiver” to the Participation Goals and such request was approved by NYCHA, such Waiver is attached to the Agreement as an exhibit and made a part thereof.

3. A Consultant that is a MBE and/or WBE may count its own participation toward fulfillment of the relevant Participation Goal. In such cases, the value of the Consultant’s participation shall be determined by subtracting from the Maximum Fee any amounts that the Consultant pays to direct subconsultants, and provided further that a Consultant that is certified as both an MBE and a WBE may count its own participation either toward the goal for MBEs or the goal for WBEs, but not both.

A Consultant that is a Qualified Joint Venture (defined below) shall be permitted to count a percentage of its own participation toward fulfillment of the relevant Participation Goal. The value of Consultant’s participation shall be determined by subtracting from the Maximum Fee of the Agreement any amounts that Consultant pays to direct subconsultants, and then multiplying the remainder by the percentage to be applied to total profit to determine the amount to which an MBE or WBE is entitled pursuant to the joint venture agreement, provided that where a participant in a joint venture is certified as both an MBE and a WBE, such amount shall be counted either toward the goal for MBEs or the goal for WBEs, but not both.

A “Qualified Joint Venture” means a joint venture with an agreement between one or more MBEs, WBEs and another person, in which the percentage of profit or loss to which the certified firm or firms is entitled or exposed for participation in the contract, as set forth in the joint venture agreement, is at least 25% of the total profit or loss.

4. A. A prospective Consultant (“**Proposer**”) shall be required to submit with its Proposal a completed M/WBE Utilization Plan indicating:

- (i) whether the Consultant is an MBE or WBE, M/WBE, or Qualified Joint Venture;
- (ii) the percentage of work or services it intends to award to direct subconsultants;
- (iii) in cases where the Consultant intends to award direct subcontracts, a description of the type and dollar value of work designated for participation by MBEs and/or WBEs, as well as the name, addresses, and telephone numbers of the M/WBE subconsultants if required by the solicitation;

August 10, 2021



and

(iv) the Consultant's required certification and affirmations.

In the event that the M/WBE Utilization Plan indicates that the Proposer does not intend to meet the Participation Goals, the Proposal shall be deemed non-responsive *unless* NYCHA has granted the Proposer a pre-award waiver of the Participation Goals in full or in part in accordance with Part A, Section 8 below.

**B. THE PROPOSER MUST COMPLETE THE M/WBE UTILIZATION PLAN FORM PROVIDED BY NYCHA. A M/WBE UTILIZATION PLAN FORM SUBMITTED BY THE PROPOSER WHICH DOES NOT INCLUDE THE SIGNED CERTIFICATION AND REQUIRED AFFIRMATIONS WILL BE DEEMED TO BE NON-RESPONSIVE UNLESS A FULL OR PARTIAL WAIVER OF THE PARTICIPATION GOALS IS GRANTED BY NYCHA. IF NYCHA DETERMINES THAT THE PROPOSER HAS SUBMITTED A M/WBE UTILIZATION PLAN FORM WHERE THE VENDOR CERTIFICATION AND REQUIRED AFFIRMATIONS ARE SIGNED BUT OTHER ASPECTS OF THE FORM ARE INCOMPLETE, OR INTERNALLY INCONSISTENT SUCH THAT THE INFORMATION SUBMITTED IS AT ODDS WITH THE M/WBE UTILIZATION PLAN FORM'S REQUIREMENTS, THE PROPOSER WILL BE NOTIFIED BY NYCHA AND WILL BE GIVEN FOUR (4) CALENDAR DAYS FROM RECEIPT OF NOTIFICATION TO CURE THE SPECIFIED DEFICIENCIES AND RETURN A COMPLETED M/WBE UTILIZATION FORM TO NYCHA. FAILURE TO DO SO WILL RESULT IN A DETERMINATION THAT THE PROPOSAL IS NON-RESPONSIVE. RECEIPT OF NOTIFICATION IS DEFINED AS: (i) THE DATE NOTICE IS E-MAILED OR FAXED (IF THE PROPOSER HAS PROVIDED AN E-MAIL ADDRESS OR FAX NUMBER), OR (ii) FIVE (5) CALENDAR DAYS FROM THE DATE OF MAILING, OR (iii) UPON PERSONAL DELIVERY, IF PERSONALLY DELIVERED.**

5. M/WBEs must be certified by SBS in order for the Consultant to credit such firms' participation toward the attainment of the Participation Goals. **FAILURE TO HAVE SUCH STATUS WILL RESULT IN A DETERMINATION THAT THE PROPOSAL IS NON-RESPONSIVE.** Such certification must occur prior to the submission of the Proposer's Proposal. A list of SBS-certified MBE and WBE firms may be obtained from the SBS website at [www.nyc.gov/buycertified](http://www.nyc.gov/buycertified), by emailing SBS at [buyer@sbs.nyc.gov](mailto:buyer@sbs.nyc.gov), by calling (212) 513-6451, or by visiting or writing SBS at One Liberty Plaza, New York, New York, 10006, 11<sup>th</sup> floor. Eligible firms that have not yet been certified may contact SBS in order to seek certification by visiting [www.nyc.gov/getcertified](http://www.nyc.gov/getcertified), emailing [MWBE@sbs.nyc.gov](mailto:MWBE@sbs.nyc.gov), or calling the SBS certification helpline at (212) 513-6311. A firm that is certified as both an MBE and a WBE may be counted either toward the goal for MBEs or the goal for WBEs, but not both.

6. The Consultant, in furtherance of its M/WBE Utilization Plan as made part of the Agreement, shall, with each invoice submitted to NYCHA and/or as periodically requested by NYCHA, submit such documentation to NYCHA in a format specified by NYCHA, certified under penalty of perjury, which shall include, but not be limited to: the total amount the Consultant paid to its direct subconsultants, the total amount direct subconsultants paid to indirect subconsultants; the names, addresses and contact numbers of each MBE or WBE hired as a subconsultant by the Consultant, and, where applicable, hired by any of the Consultant's direct subconsultants; and the dates and amounts paid to each MBE or WBE. The Consultant shall also submit, along with its invoice for final payment: the total amount it paid to M/WBE subconsultants; the total amount its direct subconsultants paid directly to their indirect M/WBE subconsultants; and a final list, certified under penalty of perjury, which shall include the name, address and contact information of each direct and indirect subconsultant that is an MBE or WBE, the work performed by, and the dates and amounts paid to each.

August 10, 2021

7. If at any time payments are made to, or work performed by MBEs or WBEs are less than the amount specified in the Consultant's M/WBE Utilization Plan as made part of the Agreement, NYCHA shall take appropriate action in accordance with Article II below unless the Consultant has obtained a modification of its M/WBE Utilization Plan in accordance with Part A, Section 9 below.

**8. Pre-award partial or full waiver of the Participation Goals.**

(a) A Proposer (or Consultant with respect to a proposed Task Order if applicable under the Agreement) may seek a pre-award partial or full waiver of the Participation Goals on the grounds that the Participation Goals are unreasonable in light of the availability of certified firms to perform the work or services required, or by demonstrating that it has legitimate business reasons for proposing a lower level of subcontracting in its M/WBE Utilization Plan.

(b) To apply for a full or partial waiver of the Participation Goals, a Proposer or Consultant, as applicable, must complete **Exhibit H-1** to the RFP (or solicitation document) and submit such request to NYCHA no later than seven (7) calendar days prior to either, (as applicable,) (i) the date and time Proposals are due, or request for Task Order execution is due, or (ii) request to execute an amendment to implement a funding increase to the Agreement. Such request must be made in writing and submitted to the NYCHA contact person listed on said form. Waiver requests that are received after such time period may be rejected as untimely.

(c) If NYCHA determines that the Participation Goals are unreasonable in light of the availability of certified firms to perform the services required, it shall revise the RFP (or solicitation document) and extend the deadline for Proposal submission or request for Task Order or amendment execution are due, as applicable.

(d) NYCHA may grant a full or partial waiver of the Participation Goals to a Proposer or Consultant, as applicable, who demonstrates — before submission of the Proposal, executed Task Order, or executed amendment, as applicable — that it has legitimate business reasons for proposing the lesser level of subcontracting in its M/WBE Utilization Plan. In making its determination, NYCHA shall consider factors that shall include, but not be limited to, whether the Proposer or Consultant, as applicable, has the capacity and the bona fide intention to perform the Agreement without any subcontracting, or to perform the Agreement without awarding the amount of subcontracts represented by the Participation Goals. In making such determination, NYCHA may consider whether the Consultant's M/WBE Utilization Plan is consistent with past subcontracting practices of the Proposer or Consultant, as applicable, whether the Proposer or Consultant, as applicable, has made efforts to form a joint venture with a certified firm, and whether the Proposer or Consultant, as applicable, has made good faith efforts to identify other portions of the Agreement that it intends to subcontract.

**9. Modification of M/WBE Utilization Plan.**

(a) A Consultant may request a modification of its M/WBE Utilization Plan after award of this Agreement.

NYCHA may grant a request for Modification of a Consultant's M/WBE Utilization Plan if it determines that the Proposer has established, with appropriate documentary and other evidence, that it made reasonable, good faith efforts to meet the Participation Goals. In making such determination, NYCHA shall consider evidence of the following efforts, as applicable, along with any other relevant factors:

August 10, 2021

- (i) The Consultant advertised opportunities to participate in the Agreement, where appropriate, in general circulation media, trade and professional association publications and small business media, and publications of minority and women's business organizations;
- (ii) The Consultant provided notice of specific opportunities to participate in the Agreement, in a timely manner, to minority and women's business organizations;
- (iii) The Consultant sent written notices, by certified mail, electronic means, or facsimile, in a timely manner, to advise MBEs or WBEs that their interest in the Agreement was solicited;
- (iv) The Consultant made efforts to identify other portions of the work or services that could be awarded to MBEs and or WBEs and which could be substituted for portions originally designated for participation by MBEs and/or WBEs in the M/WBE Utilization Plan, and for which the Consultant claims an inability to retain MBEs or WBEs;
- (v) The Consultant held meetings with MBEs and/or WBEs prior to the date their Proposal was due, for the purpose of explaining in detail the scope and requirements of the work or services for which their Proposal was solicited;
- (vi) The Consultant made efforts to negotiate with MBEs and/or WBEs as relevant to perform specific subcontracts, or act as suppliers or service providers;
- (vii) Timely written requests for assistance made by the Consultant to NYCHA's procurement coordinator and to SBS; and
- (viii) Description of how recommendations made by SBS and NYCHA were acted upon and an explanation of why action upon such recommendations did not lead to the desired level of participation of MBEs and/or WBEs.

NYCHA shall provide written notice to the Consultant of the determination.

(b) NYCHA may modify the Participation Goals when the scope of the work or services has been changed by NYCHA in a manner that affects the scale and types of work and services that the Consultant indicated in its M/WBE Utilization Plan would be awarded to subconsultants.

10. If the Consultant was required to identify in its Proposal the MBEs and/or WBEs they intended to use in connection with the performance of the Agreement, substitutions to the identified firms may only be made with the approval of NYCHA, which shall only be given when the Consultant has proposed to use a firm that would satisfy the Participation Goals to the same extent or better as the firm previously identified, unless NYCHA determines that the Consultant has established, with appropriate documentary and other evidence, that it made reasonable, good faith efforts to maintain the level of M/WBE participation. In making such determination, NYCHA shall require evidence of the efforts listed in Section 9(a) above, as applicable, along with any other relevant factors.

11. If the Agreement is for an indefinite quantity of services or is a requirements or IDIQ type contract and the Consultant has submitted an M/WBE Utilization Plan and has committed to subcontract work to MBEs and/or WBEs in order to meet the Participation Goals, NYCHA will not find Consultant in violation of the M/WBE Program requirements for the Agreement with regard to any work which was intended to be

August 10, 2021

subcontracted to an MBE and/or WBE to the extent that NYCHA has decided not to procure such work or services.

12. At least once annually during the Term of the Agreement or so long as work or services are continuing, as applicable, NYCHA shall review the Consultant's progress toward attainment of its M/WBE Utilization Plan, including but not limited to, by reviewing the percentage of the Agreement's Maximum Fee the Consultant has actually awarded to MBE and/or WBE subconsultants and the payments the Consultant made to such subconsultants.

13. NYCHA shall evaluate and assess the Consultant's performance in meeting those goals, and such evaluation and assessment shall become part of the Consultant's overall contract performance evaluation.

#### **PART B: MISCELLANEOUS**

1. SBS is available to assist Consultants and potential Consultants in determining the availability of MBEs and/or WBEs to participate as subconsultants, and in identifying opportunities that are appropriate for participation by MBEs and/or WBEs in Agreements.

2. By submitting a Proposal to NYCHA, the Consultant hereby acknowledges its understanding of the M/WBE Program requirements set forth herein, and if awarded the Agreement, the Consultant hereby agrees to comply with the M/WBE Program requirements of the Agreement, all of which shall be deemed to be material terms of the Agreement. The Consultant hereby agrees to make all reasonable, good faith efforts to solicit and obtain the participation of MBEs and/or WBEs to meet the required Participation Goals.

#### **ARTICLE II. ENFORCEMENT**

1. If NYCHA believes the Consultant or a subconsultant is not in compliance with any provision of the Agreement that implements NYCHA's M/WBE Program requirements as stated therein, including, but not limited to any M/WBE Utilization Plan made part of the Agreement or this exhibit, then NYCHA shall send a written notice to the Consultant describing the alleged noncompliance and offering the Consultant an opportunity to be heard. NYCHA shall then investigate to determine whether such Consultant or subconsultant is in compliance.

2. If NYCHA finds the Consultant has violated any provision of the Agreement that implements any M/WBE Utilization Plan, then NYCHA may:

- (a) enter into an agreement with the Consultant allowing the Consultant to cure the violation;
- (b) revoke the Consultant's pre-qualification to bid or make proposals for future contracts;
- (c) find that the Consultant is in default of the Agreement;
- (d) terminate the Agreement;
- (e) declare the Consultant to be in breach of Agreement;
- (f) withhold payment or reimbursement;

August 10, 2021

- (g) determine not to renew the Agreement;
- (h) assess actual and consequential damages;
- (i) exercise rights under the Agreement to procure work or services from another firm and charge the cost of such contract to the Consultant that has been found to be in noncompliance;
- (j) find the Consultant non-responsible in connection with one or more future NYCHA procurements; or
- (k) take any other appropriate remedy.

3. If NYCHA believes that an MBE and/or WBE is not qualified for certification, or is participating in an Agreement in a manner that does not serve a commercially useful function (as defined below), NYCHA shall notify the Commissioner of SBS who shall determine whether the certification of such business enterprise should be revoked. A “commercially useful function” means a real and actual service that is a distinct and verifiable element of the work or services called for in the Agreement. In determining whether an MBE or WBE is performing a commercially useful function, factors including but not limited to the following shall be considered:

- (a) whether it has the skill and expertise to perform the work for which it is being utilized, and possesses all necessary licenses;
- (b) whether it is in the business of performing, managing or supervising the work for which it has been certified and is being utilized; and
- (c) whether it purchases goods and/or services from another business and whether its participation in the contract would have the principal effect of allowing it to act as a middle person or broker in which case it may not be considered to be performing a commercially useful function for purposes of this section.

4. Statements made in any instrument submitted to NYCHA shall be submitted under penalty of perjury and any false or misleading statement or omission shall be grounds for the application of any applicable criminal and/or civil penalties for perjury. The making of a false or fraudulent statement by an MBE and/or WBE in any instrument shall be grounds for revocation of its certification.

5. The Consultant’s record in implementing its M/WBE Utilization Plan shall be a factor in the evaluation of its performance. Whenever NYCHA determines that a Consultant’s compliance with an M/WBE Utilization Plan has been unsatisfactory, NYCHA shall file an advice of caution form for inclusion in PASSPORT as caution data.

August 10, 2021

**EXHIBIT 4**

**ANTI-CORRUPTION NOTICE**



The City of New York  
Department of Investigation

MARGARET GARNETT  
COMMISSIONER

Dear Applicant,

As you already know, applying for a NYCHA contract takes substantial time and resources. Contractors who commit fraud or other corrupt acts make the process unfair for those who play by the rules.

You can help the NYC Department of Investigation's Office of the Inspector General for NYCHA fight fraud and corruption, and level the playing field for honest companies.

If you know of a contractor who:

- Engages in bid rigging/price fixing or other collusion;
- Offers to pay (or pays) a NYCHA employee a bribe or tip;
- Fails to pay the prevailing wage;
- Commits other labor law violations, including demanding employee "kickbacks;" or
- Engages in any fraud, corruption, or other criminal acts

Then let us know, so we can look into the matter.

We work hard to protect the anonymity of persons who refer complaints to our office, and all complaints may be made anonymously.

*Where Can You Report Fraud, Corruption, or Other Criminal Activity?*

Contact NYCHA's Office of the Inspector General:

- 1) Call: (212) 306-3355
  - 2) E-mail: [ig@nycha.nyc.gov](mailto:ig@nycha.nyc.gov)
  - 3) Online: <https://a032-secure.nyc.gov/p/ofcomplaint.html>
  - 4) Fax: (212) 306-6484
  - 5) Mail: New York City Housing Authority  
Office of the Inspector General  
250 Broadway, 8<sup>th</sup> Floor  
New York, NY 10007
-

**EXHIBIT 5**

**PAID SICK LEAVE CONTRACT RIDER**



## PAID SICK LEAVE LAW CONTRACT RIDER

### Introduction and General Provisions

The Earned Sick Time Act, also known as the Paid Sick Leave Law (“**PSLL**”), requires covered employees who annually perform more than 80 hours of work in New York City to be provided with paid sick time.<sup>1</sup> All parties contracting with NYCHA (collectively, “**Contractors**”) of the New York City Housing Authority (“**NYCHA**”) may be required to provide sick time pursuant to the PSLL.

The PSLL became effective on April 1, 2014, and is codified at Title 20, Chapter 8, of the New York City Administrative Code. It is administered by the City of New York’s Department of Consumer Affairs (“**DCA**”); DCA’s rules promulgated under the PSLL are codified at Chapter 7 of Title 6 of the Rules of the City of New York (“**Rules**”).

Contractor agrees to comply in all respects with the PSLL and the Rules, and as amended, if applicable, in the performance of this agreement, contract or purchase order (collectively, “**Contract**”). Contractor further acknowledges that such compliance is a material term of this Contract and that failure to comply with the PSLL in performance of this Contract may result in its termination.

Contractor must notify NYCHA’s Supply Management Department within ten (10) days of receipt of a complaint (whether oral or written) regarding the PSLL involving the performance of this Contract. Such written notification must be sent in a sealed envelope indicating “PSLL Notice” on the outside thereof to: New York City Housing Authority, Supply Management & Procurement, 90 Church Street, New York, NY 10007, Attn: Interim Director of Supply Management & Procurement.

Additionally, Contractor must cooperate with DCA’s education efforts and must comply with DCA’s subpoenas and other document demands as set forth in the PSLL and Rules.

The PSLL is summarized below for the convenience of Contractor. Contractor is advised to review the PSLL and Rules in their entirety. On the website [www.nyc.gov/PaidSickLeave](http://www.nyc.gov/PaidSickLeave) there are links to the PSLL and the associated Rules as well as additional resources for employers, such as Frequently Asked Questions, timekeeping tools and model forms, and an event calendar of upcoming presentations and webinars at which Contractor can get more information about how to comply with the PSLL. Contractor acknowledges that it is responsible for compliance with the PSLL notwithstanding any inconsistent language contained herein.

---

<sup>1</sup> Pursuant to the PSLL, if fewer than five employees work for the same employer, as determined pursuant to New York City Administrative Code §20-912(g), such employer has the option of providing such employees uncompensated sick time.

Pursuant to the PSLL and the Rules:

**Applicability, Accrual, and Use**

An employee who works within the City of New York for more than 80 hours in any consecutive 12-month period designated by the employer as its “calendar year” pursuant to the PSLL (“**Year**”) must be provided sick time. Employers must provide a minimum of one (1) hour of sick time for every 30 hours worked by an employee and compensation for such sick time must be provided at the greater of the employee’s regular hourly rate or the minimum wage. Employers are not required to provide more than 40 hours of sick time to an employee in any Year.

An employee has the right to determine how much sick time he or she will use, provided that employers may set a reasonable minimum increment for the use of sick time not to exceed four (4) hours per day. In addition, an employee may carry over up to 40 hours of unused sick time to the following Year, provided that no employer is required to allow the use of more than 40 hours of sick time in a Year or carry over unused paid sick time if the employee is paid for such unused sick time and the employer provides the employee with at least the legally required amount of paid sick time for such employee for the immediately subsequent Year on the first day of such Year.

An employee entitled to sick time pursuant to the PSLL may use sick time for any of the following:

- such employee’s mental illness, physical illness, injury, or health condition or the care of such illness, injury, or condition or such employee’s need for medical diagnosis or preventive medical care;
- such employee’s care of a family member (an employee’s child, spouse, domestic partner, parent, sibling, grandchild or grandparent, or the child or parent of an employee’s spouse or domestic partner) who has a mental illness, physical illness, injury or health condition or who has a need for medical diagnosis or preventive medical care;
- closure of such employee’s place of business by order of a public official due to a public health emergency; or
- such employee’s need to care for a child whose school or childcare provider has been closed due to a public health emergency.

An employer must not require an employee, as a condition of taking sick time, to search for a replacement. However, an employer may require an employee to provide: reasonable notice of the need to use sick time; reasonable documentation that the use of sick time was needed for a reason above if for an absence of more than three consecutive work days; and/or written confirmation that an employee used sick time pursuant to the PSLL. However, an employer may not require documentation specifying the nature of a medical condition or otherwise require disclosure of the details of a medical condition as a condition of providing sick time and health information obtained solely due to an employee’s use of sick time pursuant to the PSLL must be treated by the employer as confidential.

If an employer chooses to impose any permissible discretionary requirement as a condition of using sick time, it must provide to all employees a written policy containing those requirements, using a delivery method that reasonably ensures that employees receive the policy. If such employer has not provided its written policy, it may not deny sick time to an employee because of non-compliance with such a policy.

Sick time to which an employee is entitled must be paid no later than the payday for the next regular payroll period beginning after the sick time was used.

### **Exemptions and Exceptions**

Notwithstanding the above, the PSLL does not apply to any of the following:

- an independent contractor who does not meet the definition of employee under section 190(2) of the New York State Labor Law;
- an employee covered by a valid collective bargaining agreement in effect on April 1, 2014, until the termination of such agreement;
- an employee in the construction or grocery industry covered by a valid collective bargaining agreement if the provisions of the PSLL are expressly waived in such collective bargaining agreement;
- an employee covered by another valid collective bargaining agreement if such provisions are expressly waived in such agreement and such agreement provides a benefit comparable to that provided by the PSLL for such employee;
- an audiologist, occupational therapist, physical therapist, or speech language pathologist who is licensed by the New York State Department of Education and who calls in for work assignments at will, determines his or her own schedule, has the ability to reject or accept any assignment referred to him or her, and is paid an average hourly wage that is at least four times the federal minimum wage;
- an employee in a work study program under Section 2753 of Chapter 42 of the United States Code;
- an employee whose work is compensated by a qualified scholarship program as that term is defined in the Internal Revenue Code, Section 117 of Chapter 20 of the United States Code; or
- a participant in a Work Experience Program (WEP) under section 336-c of the New York State Social Services Law.

### **Retaliation Prohibited**

An employer may not threaten or engage in retaliation against an employee for exercising or attempting in good faith to exercise any right provided by the PSLL. In addition, an employer may not interfere with any investigation, proceeding, or hearing pursuant to the PSLL.

### **Notice of Rights**

An employer must provide its employees with written notice of their rights pursuant to the PSLL. Such notice must be in English and the primary language spoken by an employee, provided that DCA has made available a translation into such language. Downloadable notices are available on DCA's website at <http://www.nyc.gov/html/dca/html/law/PaidSickLeave.shtml>.

Any person or entity that willfully violates these notice requirements is subject to a civil penalty in an amount not to exceed 50 dollars for each employee who was not given appropriate notice.

### **Records**

An employer must retain records documenting its compliance with the PSLL for a period of at least three (3) years, and must allow DCA to access such records in furtherance of an investigation related to an alleged violation of the PSLL.

### **Enforcement and Penalties**

Upon receiving a complaint alleging a violation of the PSLL, DCA has the right to investigate such complaint and attempt to resolve it through mediation. Within 30 days of written notification of a complaint by DCA, or sooner in certain circumstances, the employer must provide DCA with a written response and such other information as DCA may request. If DCA believes that a violation of the PSLL has occurred, it has the right to issue a notice of violation to the employer.

DCA has the power to grant an employee or former employee all appropriate relief as set forth in New York City Administrative Code 20-924(d). Such relief may include, among other remedies, treble damages for the wages that should have been paid, damages for unlawful retaliation, and damages and reinstatement for unlawful discharge. In addition, DCA may impose on an employer found to have violated the PSLL civil penalties not to exceed \$500 for a first violation, \$750 for a second violation within two (2) years of the first violation, and \$1,000 for each succeeding violation within two years of the previous violation.

### **More Generous Policies and Other Legal Requirements**

Nothing in the PSLL is intended to discourage, prohibit, diminish, or impair the adoption or retention of a more generous sick time policy, or the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan or other agreement providing more generous sick time. The PSLL provides minimum requirements pertaining to sick time and does not preempt, limit or otherwise affect the applicability of any other law, regulation, rule, requirement, policy or standard that provides for greater accrual or use by employees of sick leave or time, whether paid or unpaid, or that extends other protections to employees. The PSLL may not be construed as creating or imposing any requirement in conflict with any federal or state law, rule or regulation.

**EXHIBIT 6**

**NYCHA HEALTH AND SAFETY REQUIREMENTS**

**New York City Housing Authority Health and Safety Requirements for Contractors  
regarding Face Coverings, COVID-19 Vaccination, and COVID-19 Testing**

**Dated: September 29, 2021**

The New York City Housing Authority (“NYCHA”), in furtherance of City of New York Executive Order 78 of 2021, entitled “Mandatory Vaccination or Test Requirement for City Employees and Covered Employees of City Contractors,” and City of New York Executive Order 79 of 2021, entitled “Safety Practices of Public-Facing Contracted Personnel During The COVID-19 Crisis,” hereby adopts for immediate implementation the following COVID-19 related health and safety requirements (collectively, “**Health and Safety Requirements**”) that all NYCHA contractors and their subcontractors must adhere to.<sup>1</sup>

NYCHA’s Health and Safety Requirements are as follows:

**A. Definitions**

The term “**contract**” means a contract, agreement, memorandum of understanding, or other contractual instrument entered into by and between NYCHA and any other party or parties, and any subcontract under such a contract, for work or services.

The term “**contractor**” means a person or entity (including but not limited to contractors, subcontractors, vendors, consultants, or government entities) that has a contract, including the subcontracts described in the definition of “contract.”

The term “**covered employee**” means a person: (i) employed or otherwise retained by a contractor or subcontractor holding a contract; (ii) who performs any part of the work or services under the contract within the City of New York; and (iii) for whom such work or services includes physical interaction with NYCHA employees or members of the public (including NYCHA residents).

The term “**full vaccination**” means at least two weeks have passed after a person received a single-dose of an FDA- or WHO- approved COVID-19 single-dose vaccine or the second dose of an FDA- or WHO- approved two-dose COVID-19 vaccine.

---

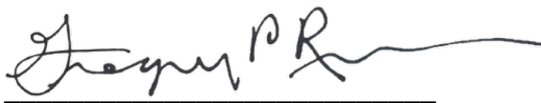
<sup>1</sup> The full text of Executive Order 78 is accessible at <https://www1.nyc.gov/assets/home/downloads/pdf/executive-orders/2021/eo-78.pdf> (last accessed September 14, 2021) and the full text of Executive Order 79 is accessible at <https://www1.nyc.gov/assets/home/downloads/pdf/executive-orders/2021/eo-79.pdf> (last accessed September 14, 2021). A Frequently Asked Questions document issued by the City of New York is accessible at <https://www1.nyc.gov/assets/dcas/downloads/pdf/guidelines/faqs-on-covid-safe-requirement-for-vaccination-or-testing.pdf> (last accessed September 14, 2021).

The term “**proof of vaccination**” means any of the following:

- An official CDC card or other official immunization card bearing the individual’s name and date(s) of vaccine administration. The contractor must see this document or a photograph of it;
- An Excelsior Pass issued by the State of New York; or
- The NYC COVID SAFE app that clearly displays an image of the CDC card or other official immunization card with the above noted requirements. The NYC COVID SAFE app can be downloaded for Apple or Android (or by searching “NYC COVID Safe” on Apple app store or Google Play store).

**B. Health and Safety Requirements**

1. Contractors shall ensure that their covered employees provide the contractor with proof of full vaccination, or provide contractor with proof of a negative COVID-19 PCR diagnostic test (not an antibody test) on a weekly basis until the covered employee submits proof of full vaccination.
2. Contractor’s covered employees (vaccinated and unvaccinated) must wear a face covering at all times while performing the work or services (whether indoors or outdoors), which covers the nose and mouth, unless eating or drinking. Contractor may grant reasonable accommodations to covered employees who cannot wear a face covering due to a medical condition or otherwise. If so, and if the covered employee is assigned to perform work or services pursuant to a contract, contractor must provide written notification to NYCHA that it granted such covered employee a reasonable accommodation.
3. NYCHA reserves the right to supplement, amend, or retract the Health and Safety Requirements in its sole discretion.

Signed: 

**Greg Russ**  
**Chair & Chief Executive Officer**  
**New York City Housing Authority**