The City of New York

Department of Finance

Request for Proposals

For

Summons Tracking and Accounts Receivables and Computer-Assisted Collection Systems Applications Maintenance and Support Services

Procurement Identification Number (E-PIN): 83619P0003

Authorized Agency Contact Person

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

Adenike Bamgboye
Agency Chief Contracting Officer
Email: **bids@finance.nyc.gov**
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1 Centre Street, 10th Floor, Room 1040
New York, NY 10007

♻ Printed on paper containing 30% post-consumer material

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SECTION I – ESTIMATED TIMETABLE

A. Release Date of this Request for Proposals: April 10, 2019

B. All questions shall be addressed to the Authorized Agency Contact Person:

> Adenike Bamgboye
> Agency Chief Contracting Officer
> Email: bids@finance.nyc.gov
> Phone: (212) 602-7002
> Fax: (212) 602-7206
> 1 Centre Street, 10th Floor, Room 1040
> New York, NY 10007

The deadline for submitting questions is April 26, 2019 at 3:00 PM EDT.

Pre-Proposal Conference:

A pre-proposal conference will be held on April 17, 2019 from 11:30 AM to 12:30 PM EDT at the New York City Department of Finance, 59 Maiden Lane, 28th Floor, Executive Conference Room, New York, NY 10038. Attendance at the conference is voluntary but strongly recommended. The conference bridge for the pre-proposal conference is (888) 278-0254, participant code is 9767693.

C. Site visit: there shall be no site visits.

D. Proposal Due Date, Time and Location:

> **Date: May 10, 2019**
> **Time: 3:00 PM EDT**
> **Location: 1 Centre Street, 10th Floor, Room 1040, New York, New York 10007**
>
> **E-mailed or faxed proposals will <u>not</u> be accepted by the Agency.**
>
> **Proposals received at this Location after the Proposal Due Date and Time are late and shall not be accepted by the agency, except as provided under New York City's Procurement Policy Board Rules. The agency will consider requests made to the Authorized Agency Contact Person to extend the Proposal due Date and Time prescribed above. However, unless the agency issues a written addendum to this RFP which extends the Proposal Due Date and Time for all proposers, the Proposal Due Date and Time prescribed above shall remain in effect.**

SECTION II - SUMMARY OF THE REQUEST FOR PROPOSALS

A. Purpose of RFP

The NYC Department of Finance ("Department", "DOF" or "City") is seeking an appropriately qualified vendor to provide application maintenance and support services for two (2) of the Department's mainframe applications, STARS (Summons Tracking and Accounts Receivable System) and CACS (Computer Assisted Collections System). The selected vendor will provide an onsite team that will:

- Design, code, and implement modifications and enhancements that satisfy changing business requirements and/or processes;

- Respond to ad hoc requests for data, reports, and questions received from the Department;

- Work with Department personnel in ensuring that nightly production schedules are completed properly and within required timeframes;

- Troubleshoot and correct error conditions that occur during the online day or during the nightly job schedules.

It is expected that the selected vendor will provide a staffing plan that will, at a minimum, be comparable to the current consultant staffing levels with associated responsibilities as outlined in Section 3.3.

The Department is planning on replacing STARS and upgrading, or replacing, CACS during the term of the contract that results from this procurement. This RFP is for maintenance of the STARS and CACS systems. The Contractor resulting from this RFP will assist with the transition to the new systems during the course of replacing STARS and CACS. For these reasons, proposers should price the cost of maintenance and support services for STARS and for CACS separately as we anticipate that the upgrade or replacement of CACS would be completed before the replacement of STARS is completed. The replacement of STARS and upgrade or replacement of CACS is out of scope for this RFP. A six-month notice would be given to the Contractor of when the replacement systems would be brought online and maintenance and support services for the legacy system(s) would no longer be required afterwards.

Anticipated Contract Term

It is anticipated that the term of the contract(s) awarded from this RFP will be for a period of up to three (3) years with an option to renew for two (2), one-year terms. The department reserves the right, prior to contract award, to determine the length of the initial contract term and each option to renew, if any.

Anticipated Available Funding

It is anticipated that the available funding for the contract awarded from this RFP will be from City's expense funds in the applicable fiscal year.

Anticipated Payment Structure

The Department shall be invoiced monthly for Application Maintenance and Support Services provided to the Department during the preceding month as documented by time reports for the individual team members. The invoiced time excludes absences due to vacation, sickness, training, or other time spent on activities not supporting the department. The total hours invoiced by the Contractor for any team member for a month will not exceed the total days, excluding weekends and holidays, times eight (8) hours per day, with any excess documented hours to be tracked as Support Bank hours that are not invoiced except as outlined below.

For each team member role, an allowance of 140 no-cost hours within a contract year will be utilized to cover time that is spent in support of off-hours and weekend activities that may be required to support and maintain STARS operations, such as nightly and weekend production batch cycles. Hours that are charged against the support bank must be tracked and reported monthly, and invoiced at a discounted rate once an individual's allowance has been exceeded.

<u>**SECTION III – SCOPE OF SERVICES**</u>

3.1   Department Goals and Objectives for this RFP

The Department's goals and objectives for this RFP are to:

- Obtain an appropriately qualified vendor to provide application maintenance and support services for two mainframe applications, STARS (Summons Tracking and Accounts Receivable System) and CACS (Computer Assisted Collections System).
- Achieve a stable and seamless transition from the current vendor's maintenance and support team to the new team resulting from this procurement.
- Continue to maintain current production applications availability and uptime.

3.2   Background - STARS and CACS Application Maintenance Team Overview

The teams supporting STARS and CACS perform activities that include the monitoring of application processes including production support of scheduled batch cycles, and the online systems. The teams also respond to ad hoc requests from the business users such as data for analytic purposes and researching specific business cases. To meet the constantly changing business requirements, the teams design, code, and test enhancements that deliver the necessary application functionality that enables the business to perform the required tasks.

The tasks performed by the teams are classified into two categories, Ad Hoc and Project Work; a definition of each category is provided in the table below.

Table A: Typical Yearly Total Team Work Hours Completed			
<u>**WORK TYPE**</u>	<u>**HOURS SPENT**</u>	<u>**% OF TOTAL HOURS**</u>	**COMMENTS**
Project Work	15,181	60%	'Project Work' is defined as any modification or enhancement, of any size, to the existing production system/software. This estimate includes time spent on all project-related tasks, from requirements definition through to implementation.
			'Adhoc Work' is defined as any task

Adhoc Work	10,433	40%	that does not require a permanent change to the production system/software. Included in this category are: • Problem investigation and resolution • Production cycle support (job failure investigation and resolution at night and on weekends) • Analysis to address questions • Adhoc report requests for data or statistics • Database Administrator and system support services
Totals	**25,614**	**100%**	

3.3 Current Application Maintenance Team Staffing

The current STARS and CACS Application Maintenance teams consist of fourteen members, a Systems Coordinator that oversees both teams, nine persons supporting STARS and five supporting CACS. The title descriptions and associated team allocations are provided in the table below. All staff members proposed for the maintenance team must meet the qualifications specified in the title descriptions below and have extensive experience with the operating environment described in Section 3.5.

Table B: Current Staffing Roles; Responsibilities & Levels

Current Role	Current Responsibilities & Staffing Levels
Systems Coordinator	• Minimum of ten (10) years of experience overseeing medium and large scale projects comprised of sub-projects and unique deliverables. Oversees both STARS and CACS teams. Coordinates and delegates the tasks for the project staff; serves as the primary point of contact for project status and meetings; performs the administrative tasks that are necessary to fulfill the contractual obligations, ensures that technical issues and concerns raised by the maintenance team or the business are addressed and fully resolved. • Current Staffing Levels: 1
Application	• Minimum of eight (8) years of experience overseeing medium and

Table B: Current Staffing Roles; Responsibilities & Levels	
Current Role	**Current Responsibilities & Staffing Levels**
Manager	large scale projects comprised of sub-projects and unique deliverables. Coordinates the overall day to day activities of the technical staff, prioritizes tasks that require immediate attention, e.g. production support issues, and manages resources to meet project schedules, escalates issues that may impact deliverable milestones. • Current Staffing Levels: 1 (STARS); 1 (CACS)
Project Leader	Minimum of seven (7) years of experience in overseeing medium scaled projects comprised of sub-projects and distinct deliverables. Coordinates and delegates the assignments for project staff, prioritizes tasks when issues arise out of scheduling conflicts, production issues, or resource availability. The Project Leader serves as the focal point of contact for project status, meetings, reporting on and addressing changes of project scope, and technical issues and concerns. Current Staffing Levels: 3 (STARS); 0 (CACS)
Senior Programmer / Business Analyst	The position requires a minimum of seven (7) years of experience in writing application software, data analysis, databases, data access and structures. An extensive background in programming, testing, and implementation following established change control and quality assurance procedures and policies must reflected in the candidates resumes. A Senior Programmer/Business analyst must have experience in the gathering of requirements, preparing business requirement documentation, and technical program specifications. Current Staffing Levels: 3 (STARS); 1 (CACS)

3.4   STARS and CACS Overview

The Department of Finance is responsible for the billing and collection of payments of the City of New York's property taxes, business and excise taxes, fines related to parking tickets and camera violations. The Department is also responsible for enforcing default judgments on these payments when they become delinquent, as well as default judgments for delinquent payments related to violations adjudicated by the City's Office of Administrative Trials and Hearings ("OATH"). The vendor that is awarded this contract will be expected to work with

various other IT support teams that support systems that interface with STARS/CACS. Both the STARS and CACS mainframe systems are critical aspect to supporting the business functions above.

In order to have a complete understanding of the maintenance and support requirements of each application, a functional description for both STARS (section 3.2.1) and for CACS (section 3.2.2) are provided in the following sections.

3.4.1 - STARS Overview

STARS is the City of New York's system of record for the disposition of summonses issued for parking violations, and other school speed-zone, red-light, and bus-lane violations recorded by cameras. Initially developed in the 1980's on an Adabas / Natural platform by outside vendors, the STARS system has been modified extensively in response to changing business and organizational requirements and has expanded so that it interfaces with other various systems that are involved with the lifecycle of camera and parking summonses. STARS is currently maintained by a team of outside consultants. A detailed overview of STARS can be found in Section 3.2.1.

Following are the high-level STARS process areas:

- **Ticket Issuance**
    o NYPD
    o Other agencies
    o Manual entry
    o Automated uploads

- **Verification (of Vehicle Owner and/or liable parties)**
    o DMV
    o Fleet/Rental
    o Aggregation at various levels (e.g., Fleet, Owner ID, registrant)
    o Collateralization
    o Connecting to other debt

- **Fleet/Rental Program Management**
    o Fleet and plate enrollment management system (**CCWeb**)
    o Fleet billing and payment tracking
    o Program compliance and termination
    o Transfers of summons liability between lessors and lessees

- **Account Receivables Management. and Payments (Payments managed via CPSS and records passed to STARS)**
    o Channels
        ▪ DOF Business Centers

- Mailed payments (lockbox)
- Online/electronic payments
- Mobile App Payments
- Pay Near Me Payment channels
- Future payment channels
  - Payment Methods
    - Paper Check
    - Cash
    - Electronic Check
    - Electronic Funds Transfer (EFT)
    - Credit/Debit Cards
    - Future Methods (e.g., emerging payment technologies, third-party processes such as PayPal, Apple and Google Pay)

- **Accounting, Aging and Penalty Cycles**
  - Fines
  - Abatements
  - Financial results of adjudication decisions
  - Financial results of negotiated settlements
  - Reconciliation
  - Refunds and Offsets
  - Penalty calculations
  - Interest calculations

- **Adjudications (NYCServ)**
  - Decisions & Orders
  - Adjournments
  - Appeals
  - Non-hearing administrative actions

- **Noticing**

- **Enforcement**
  - Judgment entry
  - Enforcement Actions
    - Booting/Towing
    - Other Asset seizures
    - Referrals to outside Collection agencies (OCA)
    - Litigation and collateralization with other liability streams

- **Reporting and Analytics**
  - Programmatic performance reporting
  - Responses to external requests for information (e.g., FOIL, press inquiries)

- o Monitoring of Fleet and Rental program compliance
- o Financial reporting

STARS Business Process Overview

Input / Verification

Summons Issuance
- Handheld (IPS)
- Hand written (FedCap)
- Camera (ATS)

Summons level data
- Violation level data
- Plate / owner information
- Amount due

Plate / Owner level information
- Wrap plates up to specific owner IDs
- Fleet IDs

DMVs (NYS / NLETS / LES)
- Provide owner information
- Verify plate registration

Summons verification
- Inquiries to DMVs to capture owner information
- Inquiries to DMVs for license plate confirmation
- Facilitates the entry of a violation into judgment

Verification triggers the judgment cycle

Life Cycle Management

Payments
- Stores amount due
- Tracks payments
- Calculated penalties
- Calculates interest

Noticing
- Time-triggered notices generated and mailed via USPS for unsatisfied summonses

Adjudications
- Stores "key-events" related to the hearing process

Enforcement
- Applies enforcement holds
- Tracks and manages enforcement actions

Lockbox (Bank Partner)
- Mail-in payments

CPSS
- Online payments
- Business Centers

Printing Partner
- Print / mail files sent to vendor

CACS
- Assign debt to OCAs
- Track judgment payments

NYCServ
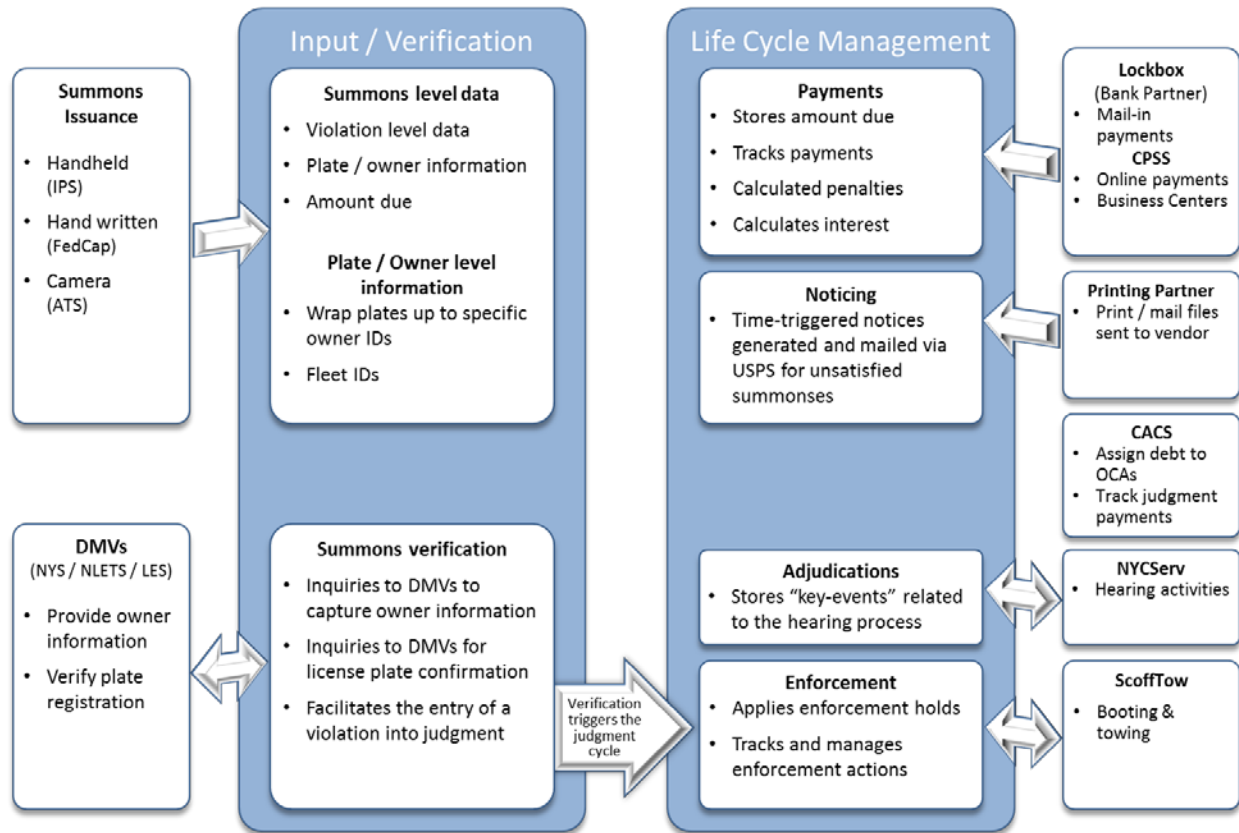- Hearing activities

ScoffTow
- Booting & towing

Figure: 3.1

3.4.1.1 – STARS Objectives & Functions

The key objectives of the STARS application are as follows:

- Ensure timeliness/accuracy/completeness of the information relating to parking summonses and camera violations issued in New York City, payments made, results of adjudications and collection activities;

- Support customer service activities which assist the public in satisfying summonses and resolving claims;

- Support collection and enforcement activities;

- Provide an accounting framework to support accounts receivable processing and revenue projections; and

- Provide management reporting on summons activity to assess the effectiveness of summons-management programs.

Below are the basic functions of the System that help in accomplishing the key STARS objectives:

a. Enter summons and determine who is liable for it;

b. Track summons disposition;

c. Process Payments;

d. Support enforcement and resolution of delinquent responses to summonses

Each of the four basic functions is described in further detail in the following sections.

a) Enter summons and determine who is liable for it

The Enter Summons and Determine Owner process includes those manual and automated functions performed from the time summonses are submitted by the issuing agency to the Department, through the entry and validation of those summonses in the STAR System, until the owner (or other responsible party) of the vehicle to which the summons was issued has been identified and verified.

The specific process constituting the design of Summons Intake and Determination of liable party are as follows:
- Receive Summonses
- Resolve Summons, Reject Summons
- Enter and Edit Summonses
- Obtain Owner Name and Address, and registration information
- Whether the registered owner is liable, or whether another party is due to participation in special summons management program (e.g., Fleet, Rental, Diplomatic, etc.).

Upon entry of each summons into the System, a series of edits is performed to validate each data field. All validated summonses are accepted for further processing. For all keyed fields for a hand-written summons, field control checks are used to validate summonses.

A series of flexible tables exists within the STARS to normalize values for key database fields defined for summons records. The normalization of key values provides a more accurate and efficient matching of summonses and plate record fields. The Production Control Team maintains these tables with all values set by the Department.

Keyed database fields defined in the summons record may be corrected on-line when values are incorrectly entered. Both the original and corrected values are maintained in the summons database record and are reported in a series of reports generated on issuance and errors. These detail the specifics of the issuance, entry and correction processes.

Once summonses have been entered into the System, a process occurs which attempts to match plates to owner. This involves the receipt of weekly data from the New York Department of Motor Vehicles (DMV) as well as from a vendor contracted to supply such information for the remainder 49 states and Canadian provinces, and some US Territories, and matching such data to plates on file, and requesting data not sent. Further matches occur with other states and the U.S. Department of State (for diplomats). In addition, the System maintains a sub-system for tracking the issuance of rental vehicles upon rental car registration with the Department, as per the New York State Vehicle and Traffic Law.

STARS supports the enrollment and reporting of commercial fleets, rental agencies (as per Section 241 of the New York State Vehicle and Traffic Law), and official vehicles. The System also updates the Special Parking Identification file (i.e. Handicapped), and the stolen vehicles files. STARS receives weekly files of stolen and recovered vehicles from the New York State Police Information Network (NYSPIN). These files update the system so that summonses issued to stolen plates are automatically dismissed and assist the Sheriff's Office in recovery of such vehicles.

b) Track Summons Disposition

A primary goal of STARS is recording summons disposition and supporting status inquiries by both DOF personnel and the public. The public contacts the Department in person, by mail, by operator-answered telephone, and online via the agency's website and 3-1-1. STARS supports all of these modes of inquiry.

The functionality and tools to accomplish this are as follows:
- On-line inquiry to summons and owner data;
- History of key events;
- Complete plate, summons, payment and disposition history;
- On-line entry of request for form letter generation;
- On-line summons copy request and computer-generated copies;
- On-line entry of disposition and payments;
- Inquiries to support researchable claims; and
- On-line entry of penalty and enforcement holds.

The specific processes, which constitute the design of Determine Summons Disposition, are as follows:
- Process Information Request;
- Classify Claims;
- Investigate Researchable Claims;

- Review Non-Adjudicatory Claims;
- Adjudicate Claims;
- Contact Respondent; and
- Provide IT reports.

STARS supports in-house staff in responding to inquiries as to summons status, requests for summons copies, and hearing requests.

c) Process Payments

The design of the Process Payments function includes those activities that relate to the entry, adjustment, researching and reconciliation of summons and fee payments as well as to the interface with other agencies in determining revenue allocation and/or commission. The actual payments are being processed via the Department's CPSS (Citywide Payments Services and Standards) Division.

This process was designed to provide the Department with maximum ability in applying summons payments. To meet this objective, the Process Payments function:

- Provides the capability for on-line entry and adjustment of all summons payments;
- Supports the research of payment-related inquiries and payment application problems;
- Provides the capability for the automatic generation of payment related correspondence such as notification of refund due;
- Provides files for automatic generation of refund checks in response to manual research and on-line entry of appropriate transaction codes;
- Supports the reconciliation of applied payments with recorded deposits;
- Assists in the determination of revenue allocation and/or commissions; and
- Provides a number of payment reports to assist management in monitoring summons payment activity and revenue generation.

The processing of payments within the STARS consists of the following six lower-level processes:
1. Apply Payment and Adjustments;
2. Research Payment;
3. Contact Respondent;
4. Reconcile Payment Data;
5. Determine Collection Agency Commissions; and
6. Provide Payment MIS Reports.

STARS support the manual reconciliation of payment problems. Clerks research unidentified payments using STARS screens keyed to owner, plate and summons.

d) Support enforcement and resolution of delinquent responses to summonses

The Ensure Collection of Payment process in STARS includes those functions performed to support enforcement activities. As such, this design affects the status and processing of a

summons from the time it is entered into STARS to the final disposition of the summons, be it satisfied, dismissed, or written-off. In relation to the total design of the System, the Ensure Collection of Payment process is inter-related with the remaining three processes of the design it affects, and is affected by the processing and events which occur in other processes.

Specific processes, which constitute the design of the Ensure Collection Payment process, are as follows:

- Prepare monthly judgment books on CD-ROM or Other required formats for docketing with the County Clerk's offices;
- Select Summonses for Enforcement Action;
- Implement Enforcement;
- Monitor Enforcement Efforts;
- Provide Enforcement Reports/Outputs;
- Prepare third party assignments as required;
- Automated interface with collections case tracking system (CACS);
- Field based enforcement support, towing and booting,

STARS supports plate inquiries initiated by tow enforcement teams in the field equipped with handheld PCs accessing weekly tow eligible data as well as real time Mobile Digital Terminals. Field personnel are able to ascertain if a vehicle is tow-eligible as a Scofflaw. There were over hundred terminals in use by the City Marshals and the Sheriff's Office. On average, 8,000-10,000 inquiries were made on a daily basis. Since 2013, this activity has been replaced with the use of booting, immobilizing the vehicle in-place. Using vehicle mounted cameras to scan plates of vehicles parked on the street, a match is made against a file of all plates that are possibly eligible for restraint. When a match is made, an automated real-time lookup is initiated to the STARS application for confirmation of eligibility.

3.4.1.3 - STARS Interfaces

Over the course of the summons life cycle, data is received and sent to a number of different internal and external sources at various points. Such sources include the New York State DMV, an external vendor for other states DMV information, lockbox feeds for receipt of payment data, etc. The figure below, STARS Interfaces, shows the major external interfaces with which STARS exchanges data. Some of the interfaces are online, such as NYCServ, and others are in a batch mode using secure file transfers to send and receive data.
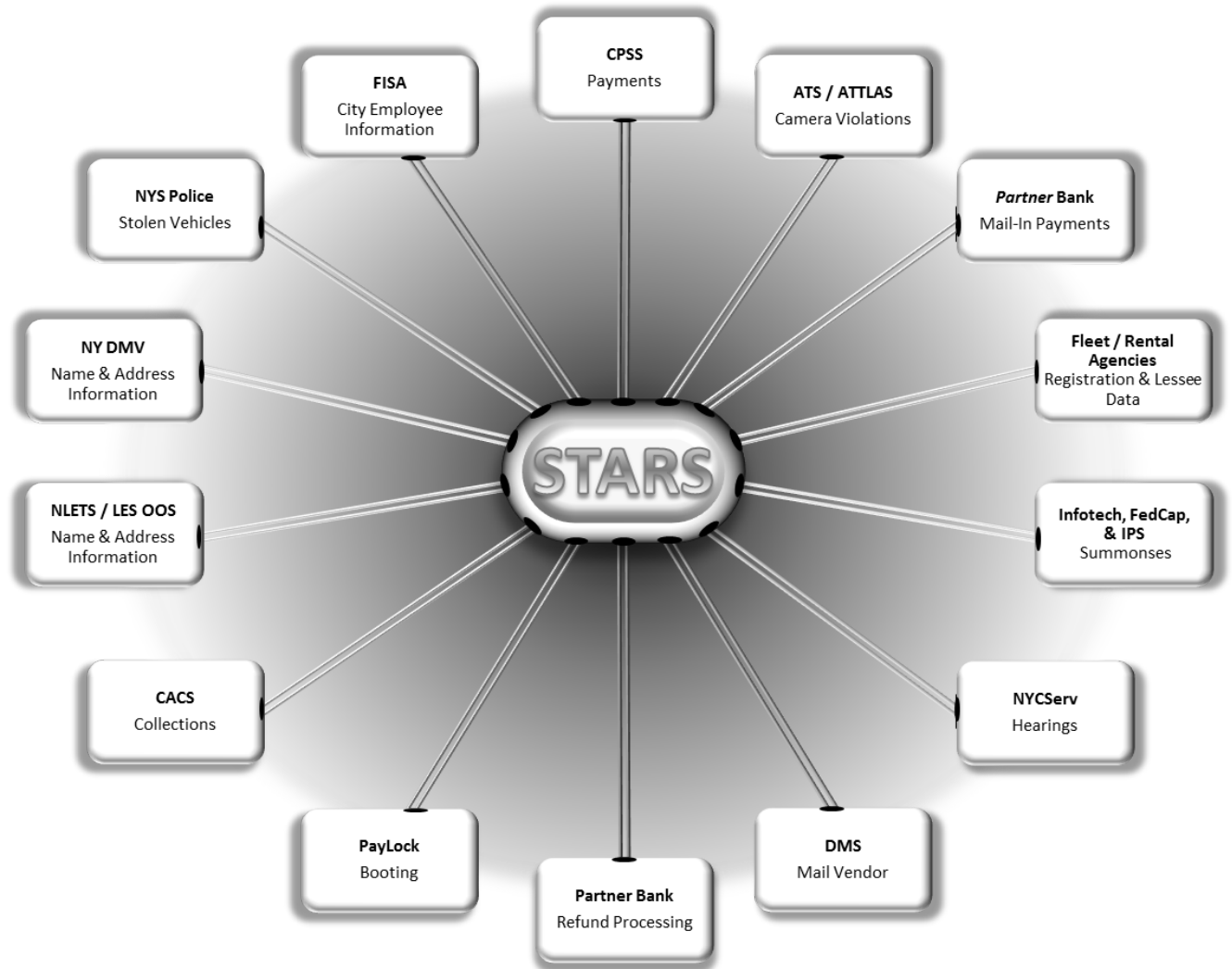
Figure: 3.2

3.4.1.4 - Overview of Interactions With Other Systems

The figure below depicts the universe of related activities and systems that affect summons. Although STARS is the primary system of record for the maintenance of summons data and accounts receivable (A/R) management, it is reliant on interfaces with outside systems pertaining to multiple issue areas that influence the life cycle of a summons. Broadly speaking, there are over a dozen system interfaces with STARS that fall into one of seven functional categories:

a) **Issuance**
b) **Summons Processing**
c) **Verification**
d) **Fleet Management**
e) **Payments**

f) **Hearings / Adjudications**
g) **Noticing**
h) **Judgement Entry**
i) **Enforcement**
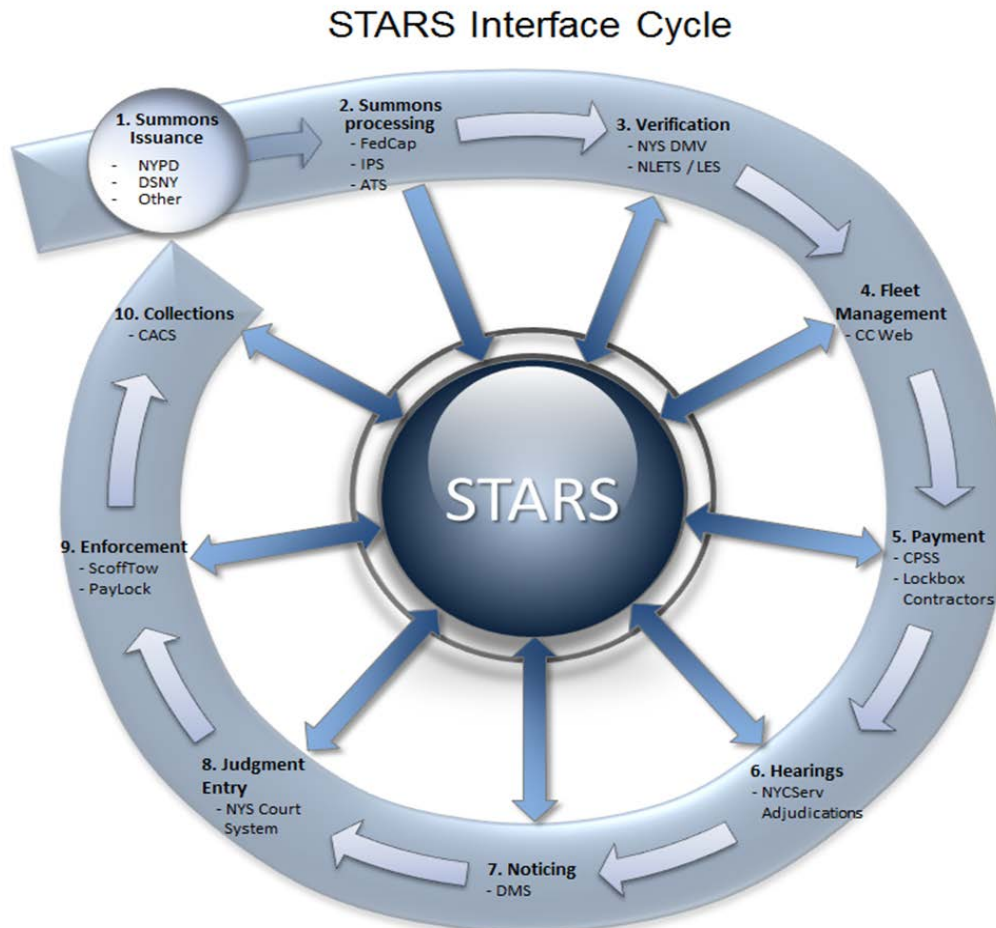j) **Collections**

Figure.3.3

STARS is dependent on these systems to ensure that the data it stores is accurate and the activities that affect the resolution of the summons are up to date. For a full explanation of STARS' batch processes, both internal and with interfaces, see Section 3.2.1.5. A brief summary of the functional area and corresponding interface is listed below.

a) **Issuance**
Interfaces: Summons Issuing Agencies
Although most parking tickets are issued by Traffic Enforcement Agents (TEAs) working for NYPD, 32 City agencies in total write parking tickets.

b) **Summons Processing**

Interfaces: Summons Entry Vendors
STARS rely on three vendors to produce/input:
- Tickets issued by a handheld electronic device
- Handwritten tickets
- DoT (Department of Transportation) issued camera violations.

The STARS new summons issuance stream consists of several programs that validate the summons data, apply special processing when necessary, verify the summons was issued to the correct plate and add the new summons record to the STARS database.

c) Verification
Interfaces: New York State DMV and Out-of-State Processing
The New York State Vehicle Tax Law (VTL) 241 mandates a cycle under which notices must be sent to the owner of the plate to which a ticket is issued in order for penalties to accrue and a default judgment to ultimately be entered. If these steps are not followed, then the vehicle cannot be subject to booting, towing or other collection enforcement tools. Consequently, each day when new summonses are processed, STARS determines which ones are in need of vehicle and registration information. As part of the weekly DMV Request stream, two files are produced; one containing requests for information directly from the NYS DMV and one containing requests for information, via subcontractors from the DMVs of all other states, the District of Columbia and the Canadian provinces. Results of these inquiries are posted to STARS and system is updated to reflect whether ownership has been confirmed.

d) Fleet Management
Interfaces: Fleet/Rental Online Portal (CCWeb)
Within STARS, there is a special plate subsystem that supports the needs of the aforementioned Fleet/Rental programs. Finance developed a front-end online portal, CCWeb (Commercial Customers Website), to assist Fleet/Rental agencies with the management of their summons inventory. Registered fleets can add and terminate plates to the program, create a bill, request hearings and pay tickets online. STARS generates a weekly report that is posted to CCWeb and notifies each registered fleet program participant of newly issued summonses and their outstanding debt at different points in time. The report is organized into three sections; summonses newly issued, summonses at full fine and penalty and summonses in judgment.

e) Payments
Interfaces: CPSS & Lockbox
Currently, online, mobile app and in-person payments are facilitated by Citywide Payments Services and Standards (CPSS). At a high-level the payments activity flow under CPSS is as follows:

- Parking ticket receivables data is maintained in CPSS via daily batch file updates from STARS
- Information on the receivable is presented to the user

- Online & Mobile App: The receivable information is presented to the payer, who enters payment information into a web or mobile interface.
- In person: The receivable information is presented to the City's customer service representative who selects the violation(s), and enters select payment information into the front end interface. The City also contracts with in-person vendor locations where a customer can create a barcode to schedule a cash payment for a ticket and make the payment in person at a select retailer (currently 7-11 and CVS).
  - Note: Both in-person and online/app channels allow payment of tickets that have not yet been entered into STARS as receivables. These are referred to as "windshield" or "not-in-system (NIS)" tickets.
- The payment is processed
- CPSS provides real-time payment update details to STARS via a web service call for tickets that are in judgment so that STARS can apply a hold to prevent booting.
- CPSS provides a nightly batch file of violation payments from all non-lockbox channels to STARS updating the summons' record with the payment details.

Mailed payments are processed by a lockbox vendor, who generates a daily file with all payments made on tickets and forwards to the Department. The file is uploaded to STARS via batch process. An exceptions report is generated for payments that the vendor cannot match to a specific summons and these payments are reviewed and keyed in to STARS manually by Finance staff.

f) Hearings / Adjudications
Interfaces: NYCServ Adjudications
NYCServ Adjudications is the application through which hearings on parking tickets are scheduled and conducted by Administrative Law Judges (ALJs). The hearing process is initiated when the system creates an electronic case file (ECF) after an owner requests a hearing a) in-person, b) via mail or c) online d) mobile app. These latter three types of requests trigger a communication to STARS to place a "hold" on the violation, which freezes the penalty cycle while the owner awaits a hearing. The ECF retrieves data elements from STARS pertaining to the disputed violations, such as the violation number, date, time and location of the violation. An ECF may include more than one violation.

During the hearing, data elements from STARS populate the NYCServ screen that the ALJ uses to facilitate the hearing. Upon conclusion of the hearing, the ALJ makes a decision and enters the verdict and supporting justification into NYCServ Adjudications. NYCServ transmits several data elements to STARS, including a code for the hearing disposition, a reason code explaining the basis for the decision, and any updates to the amount due (i.e. if the ALJ waived any penalties, or the base fine is reduced or eliminated).

g) Noticing
Interfaces: Print Vendor/ DMS
Different letters, triggered by both respondent and agency activities in STARS, are produced in each of the production cycles: Daily, Weekly, Monthly and Penalty. In addition, various 'Special' correspondence cycles are executed according to schedules, typically quarterly, produced by

the Department. Within each STARS batch cycle, there are a number of correspondence streams, upon the completion of which an output file is generated and sent to the vendor for print.

h) Judgement Entry
Interfaces: Court Systems
When and if a summons reaches the end of the penalty cycle unresolved, it is placed into judgment status. Each week, all summonses that are scheduled to enter judgment the following weekend appear on a report that is forwarded to the Department for review and approval. A representative sample is reviewed for accuracy and a Department staff member, assigned as a clerk of the court, certifies that the group of summonses can enter judgment.

On a monthly basis, the STARS Plate Extract module produces a file that contains all plates with summonses in judgment. This file is then fed into a program that accumulates totals for the judgment debt by plate and produces a report called the 'Monthly Judgment Books.' These Judgment Books are produced on CD and filed monthly with the County Clerk offices of the five boroughs of New York City.

i) Enforcement
Interfaces: ScoffTow
ScoffTow is a case management application built within NYCServ that supports Finance's booting and towing program. STARS collateralize all of an owner's plates and sum the total amount due in judgment debt (including base fines, penalties and interest). When an owner accrues more than $350 in judgment parking ticket debt, each of his or her vehicles becomes eligible to be booted regardless of whether that specific vehicle has any parking tickets. STARS generates a weekly list of vehicles that have parking violations judgments in excess of $350, which is then provided to the vendor, who uploads the file to license plate recognition (LPR) cameras that are used by sheriff's deputies and marshals to identify boot-eligible vehicles. Following a real time inquiry of STARS by the marshal or sheriff to confirm eligibility, the vehicle is booted and the vendor's software sends a web service call to ScoffTow that creates a case.

j) Collections
Interfaces: CACS
The Computer Assisted Collection System (**CACS**) is the case tracking system for judgment parking tickets. The Collection Agency Subsystem assigns portions of the outstanding parking receivables to external collection agencies for debt collection. This tool allows the Department to take advantage of the collections expertise of these agencies to increase the Department's revenue in exchange for commissions on monies collected.

3.4.1.5 - Overview of STARS Batch Processing

The following is an overview of the STARS batch processing currently performed. This includes many, but not all, functionality of STARS and is presented from a functional standpoint, rather

than a batch cycle standpoint. This approach was chosen because many STARS functions are performed across multiple batch cycles.

New Summons Issuance

New parking summonses are issued by 32 different City agencies. These summonses are electronically transferred to DOF for entry into STARS from two vendors; one that handles handheld issuance and one that handles handwritten issuance. The STARS new summons issuance stream consists of several programs that validate the summons data, apply special processing when necessary, verify the summons was issued to the correct plate and add the new summons record to the STARS database.

Prior to being added to the database, every summons is put through a number of processes to determine if it requires special handling.

1. Various edit checks are done, such as checking if the summons already exists on the database, verifying the fine amount and correcting it if it is more than the allowable amount for the corresponding violation code, reformatting date fields and determining if the summons was withdrawn or voided. Corrections are made and summonses are rejected, as necessary.
2. Each summons is checked to see if it meets the criteria for automatic dismissal. Summonses are dismissed upon entry for reasons such as the car was stolen at the time of issuance or the summons belongs to an official or government plate that is exempt from certain parking violations.
3. If no registrant and vehicle information exists for the plate, a transaction is generated for processing in the weekly DMV request stream.
4. If registrant and vehicle information does exist for the plate, the summons is passed on to a program that attempts to verify that the summons was issued to the correct plate. This is done by matching information on the summons to plate information obtained from DMV.
5. Any summons that was issued to a plate that is registered in one of the Department's Fleet or Rental programs is marked as such. Fleet summonses are further checked to see if they belong to a company that is also in the Delivery Solutions program and are to have an abatement applied. A transaction is written for rental summonses for further lessee processing.

Equipped with the necessary information about a new summons, the final program in this stream physically adds the new record to the STARS database. If it was determined that the summons is to be dismissed or have an abatement applied, this program applies the appropriate reduction.

DMV Request and Reply Processing

Obtaining vehicle and registration information from the various State DMVs is a vital STARS function. Each day when new summonses are processed, STARS determines which ones are in need of vehicle and registration information. As part of the weekly DMV Request stream, two files are produced; one containing requests for information from the NYS DMVs and one

containing requests for information from the DMVs of all other states, the District of Columbia and the Canadian provinces.

STARS communicates directly with NYS DMV and through subcontractors for all other jurisdictions. These subcontractors then communicate with the DMVs for all non-NY states to obtain the data requested by STARS. The requests are formatted in accordance to each state's unique requirements and sent electronically. The STARS database is updated to appropriately reflect that these requests were made.

Each of the reply files is run through Trillium Software to standardize and correct name and address data and then is reformatted to conform to STARS standards before processing can continue. The STARS DMV reply update program uses the information received from the state DMVs to update the STARS plate file with registrant and vehicle information. If the DMV information indicates that a change of ownership has occurred, a new plate record is added to the database for the same license plate, but reflects a different ownership period. STARS refers to this as a 'split plate' and it is a scenario that adds complexity to almost every other STARS function. Finally, the plate database records are updated to appropriately reflect that a DMV reply has been received and posted.

Penalty Accrual
The STARS Penalty Accrual stream consists of several programs that add penalties of increasing amounts to summonses and generate corresponding notices related to those penalties. Once a summons enters STARS, the New Summons Issuance stream sets the summons up to enter the weekly penalty stream. STARS uses an internal scheduler to trigger the summons to enter this processing program at pre-determined points in time for the accrual of additional penalties and generation of corresponding dunning notices. The schedules that dictate the penalty amounts and when they should be assessed are table-driven and vary depending on the type of summons.

Each time the penalty processing program determines that a penalty is ready to be assessed, it writes a record to the penalty update program to update the summons financials and record a key event to reflect the penalty activity. A separate record is then forwarded to the appropriate correspondence programs for the generation of the associated penalty notice.

Judgment Entry
When and if a summons reaches the end of the penalty cycle unresolved, it is placed into judgment status. Each week, all summonses that are scheduled to enter judgment the following weekend appear on a report that is forwarded to the Department for review and approval. A representative sample is reviewed for accuracy and a Department staff member, assigned as a clerk of the court, certifies that the group of summonses can enter judgment. Once this process has been completed, the Department enters an online transaction that triggers a batch process that selects all summonses ready to enter judgment and forwards them on to the judgment entry program. This program checks for last minute penalty holds which would delay judgment entry, and then writes out all summonses not on hold to the judgment update program. Once

these summonses have been updated with a Judgment Entry Date, they are written to another program which produces a report detailing all the judgments entered for that week.

On a monthly basis, the STARS Plate Extract module produces a file that contains all plates with summonses in judgment. This file is then fed into a program that accumulates totals for the judgment debt by plate and produces a report called the 'Monthly Judgment Books.' These Judgment Books are produced on CD and filed monthly with the County Clerk offices of the five boroughs of New York City. Additional copies are forwarded for a fee to several title companies.

Correspondence Generation

Generating and delivering communications to respondents in the form of mailed letters remains a vital component of the Department's business. Some type of mailed correspondence supports most aspects of the Department's interaction with the public. Seven and a half million pieces of correspondence were produced and mailed by the Department in 2012.

Different letters, triggered by both respondent and Department activities in STARS, are produced in each of the production cycles, Daily, Weekly, Penalty and Monthly. In addition, various 'Special' correspondence cycles are executed according to schedules, typically quarterly, produced by the Department. Within each STARS batch cycle, there are a number of correspondence streams, all of which follow a similar course as outlined below.

I.   A correspondence transaction file is created that contains name and address of the recipient of the letter, the targeted plate or summons and an indicator that specifies which letter is to be produced.
II. The correspondence transaction file is used as input to the correspondence extract program which retrieves the detailed data required to produce each specific letter and creates multiple output files based on attributes associated with the eventual packaging instructions.
III. These output files are processed through CODE-1 Plus for address standardization and zip code correction. The resultant records are then formatted into a print stream file, and processed through MailStream Plus for pre-sort and associated postal discount analysis and USPS reporting requirements.
IV. The MailStream Plus job creates files which are electronically transmitted for printing and mailing services and ultimate delivery to the post office.

Collection Agency Assignment

The Collection Agency Subsystem assigns portions of the outstanding parking receivables to external collection agencies for debt collection. This tool allows the Department to take advantage of the collections expertise of these agencies to increase Department revenue in exchange for commissions on monies collected.

Once a month, cases within the Compute Assisted Collection System (CACS) that meet the criteria for external assignment are given to the collection agencies currently under contract with the Department. The criteria for assignment varies depending on the type of debt but

includes factors such as the age of the debt, whether or not a valid address exists for the case and whether the case has been through a series of internal collection activities.

After the initial assignment of debt to a collection agency, several processes take place that require interaction and communication between STARS and the collection agency. On a weekly basis, STARS creates a file of transactions that affect the balance or status of the summonses or plates assigned to the agency. Upon receipt, the agency makes the necessary changes to their database to synchronize their records with STARS. The accuracy of this synchronization is extremely important to help ensure that newly satisfied debt will no longer be targeted for collection.

The payments and payment adjustments made against assigned summonses each week are accumulated and fed into the STARS monthly commission stream which determines the commissions due to each agency. These programs contain logic to determine whether the payment made was a result of collection efforts of the collection agency or the Department. Commissions are determined by factors such as when the payment was made and what action triggered the payment. A series of commission reports, detailing and summarizing payment activity, are then produced and forwarded to the Department and the collection agencies for reconciliation of commission payment.

During the STARS monthly batch cycle new judgment summonses for plates already assigned to a collection agency are identified and forwarded to the appropriate agency. Referred to as "add-ons", these summonses are sent to the agency to be added to the original assignment. Under certain circumstances, STARS also identifies summonses that need to be recalled from the current assignment. These recall transactions indicate to the collection agency that collection efforts must cease. STARS also provides the Department with the ability to recall entire assignments during any monthly cycle. Assignments to external agencies are for a specific period of time. STARS allows assignments to be extended or cancelled at the Department's direction.

Claims, Settlements and Adjudications
A claim is a respondent's allegation of circumstances, which the respondent believes should reduce or eliminate a particular fine. Examples include claims that a meter was broken, that alternate side of the street parking had been suspended due to a snow day, that a sign was damaged or missing, as well as 'not my car' claims. A respondent may submit a claim at any point via the internet, by mail, or in person at one of the Department's Business Centers. Claims eventually result in a disposition, a decision related to a respondent's claim. A disposition may eliminate or alter the amount of the fine owed. Certain dispositions, such as "Guilty" or "Guilty with Reduction" stop the accrual of further penalties for a specified period of time, giving the respondent time to pay.

STARS batch processing supports the tracking and resolution of respondent claims regardless of how they are initiated.

- **In Person Claims –** When a respondent enters a Business Center to contest a summons, they appear before an Administrative Law Judge (ALJ) to attempt to have their summons dismissed. The resulting transaction is entered and forwarded on to STARS for processing. This transaction may be a settlement reduction, an ALJ's determination or an adjournment, which occurs when the respondent is directed to provide additional evidence.
- **Claims via the Internet –** Over the internet, a respondent can request a hearing and present evidence. The hearing request is forwarded to an ALJ for processing and when completed, the ALJ enters his or her determination which creates a transaction for STARS processing.
- **Claims Sent in by Mail –** Claims received by the Department by mail are processed through a special STARS batch stream that attempts to automate the resolution of the claims.
  - An automatic penalty hold is placed on the summons.
  - STARS also supports a process that determines if the summons was defectively written. If any defect is detected by this program, a transaction is processed to automatically dismiss the summons.

The STARS daily and weekly batch cycles support these functions with programs that update summonses with their abatements or determinations, place holds on summonses to provide respondents with a grace period to pay the balance due before assessment of additional penalties, generate appropriate correspondence to respondents, and report on the activity of claims, administrative and adjudicatory determinations.

Payment Processing
Payment transactions are received daily from two sources: Banking partner that handles lockbox payments, and Citywide Payment Services and Standards. The payment files that enter STARS go through pre-processing programs to validate the contents and perform various edits. The reformatted payment records then proceed to the primary batch payment program for payment application.

The nightly batch payment processing module accumulates payments made to a particular plate and determines how each of them should be applied. For each summons receiving a payment, the program first determines if, based on the date of the payment, any penalties or interest recently applied to the summons need to be backed out. The program then applies the payment and accumulates any overpayment for subsequent processing. After applying the payments that came in for the plate, the program takes any overpayments that it accumulated for the plate and applies it to any remaining outstanding judgment debt on the plate. Any overpayment that cannot be applied is stored on the plate record.

On a weekly basis, if a plate with existing overpayment has new summonses going into judgment, the overpayment is applied automatically to the new judgment debt. Thirty days after an overpayment is created, if it has not yet been applied, it is processed through a different weekly batch stream for refund processing.

The weekly Refund Overpayment stream process overpayments for both commercial and non-commercial entities. Correspondence and refund checks, which are automatically created, are produced and mailed to respondents notifying them of their overpayments. All refund transactions are processed through additional programs which update STARS and prepare refund files that are electronically sent to the banking partner handling refund processing for the printing and mailing of refund checks.

In addition to transaction reports, the STARS payment and overpayment processing streams include a series of reconciliation reports for all payment sources. For each source, this function compares the payment records input into STARS to the payment and overpayment information posted to the database, and reports any discrepancies.

Overpayment for Commercial entities is cross applied automatically to the judgment debt 90 days after an overpayment is created, if it has not yet been applied, it is processed through a different weekly batch stream for refund processing

Computer Assisted Collection System (CACS)

The Department utilizes CGI's software, CACS, to manage their collection efforts for parking, Environmental ECB, and TLC debt. CACS batch processing is integrated into the various STARS batch processing cycles to apply transactions and build workflow to support the following activities:

- An online system supports the Department's collection of delinquent and default cases. For example, users can manually set up collection cases that do not meet the Department-defined threshold or other established parameters and, therefore, would not automatically be referred by STARS.
- The system features automated work assignment and scheduling and provides activity statistics for reporting and evaluation purposes. Management-maintained parameter tables control collection processing flow and enforce overall collection strategy.
- Activity information and collector performance is compiled, summarized and regularly reported by CACS to facilitate management control of collection operations.
- Cases are scheduled for specific follow-up activities by the system although collection personnel can easily access and update collection information via online computer terminals.
- CACS prepares automated work lists for collectors and supervisors and generates correspondence requested directly by users or triggered by user-defined rules.

In addition to the numerous jobs in all batch cycles that run the CACS software, many customized programs were created for DOF to support the various interfaces between STARS and CACS. These batch interface programs refer newly eligible and user requested cases to the CACS system add on new judgment debt to existing cases and apply daily, weekly and monthly transactions to the debt in CACS to keep it synchronized with the STARS databases.

Special Plate Processing

The primary purpose of the Special Plates subsystem is to streamline the end-to-end process associated with the handling of entities with large volumes of plates, such as fleet and rental companies, and government agencies. These programs were designed to aid both the Department and the individual agencies in the notification and collection of debt.

Fleet Processing

Government agencies and fleet companies, such as UPS, can choose to register their vehicles in the Department's Fleet program. Having a company's fleet of vehicles consolidated under a common registration number prevents the company from being dunned separately for each summons issued to a vehicle in their fleet. After the initial registration of plates, fleet agencies periodically add plates to, or terminate plates from, their fleet account. The STARS monthly Special Plate Processing program reads the registration and termination transactions and updates each plate record accordingly. No fee is charged by the Department to register fleet vehicles and the registration periods are indefinite. A monthly report is produced by STARS and sent to each agency listing the vehicles currently registered in the Department's Fleet program for reconciliation purposes.

A weekly report notifies each registered fleet program participant of newly issued summonses and their outstanding debt at different points in time. The report is organized into three sections; summonses newly issued, summonses at full fine and penalty and summonses in judgment. This report is utilized by the fleet agencies to make payment and to request adjudication of summonses they feel were improperly issued. All unresolved judgment summonses will appear on a monthly report used as a collections tool by the Department.

Delivery companies that participate in the Department's Fleet program also have the option of joining one of the Department's Delivery Solutions programs. These programs offer the companies a reduced fine for their summonses in exchange for their agreement to waive their right to challenge them. When a summons enters STARS for a company in one of these programs, special programming reads the appropriate abatement schedule, determines the fine reduction, if any, to apply and updates the summons accordingly. These summonses appear on a separate section of the weekly issuance report, indicating the reduced liability amount.

The interactions between Fleet Program participants and STARS as described above are being augmented with a new front-end application CCWeb. The application supports plate registration and termination, looking up of outstanding debt, selection of summonses for hearings, and bill payment.

Rental Processing

Rental agencies, such as Avis, register their vehicles in the Department's Rental program in a fashion similar to fleet agencies. The primary purpose for registering a rental vehicle with the Department is to help enable the Department to collect payment from the lessee of the vehicle without having to pursue the rental agency for debt for which they are not liable.

A rental vehicle registration in this program is valid for one year. Annually, a process referred to as 'Re-registration' occurs during which a rental agency identifies which vehicles they wish to register for the coming year. This process begins with the generation of a Turnaround Report. This report lists all vehicles currently registered in the program and is delivered to the rental agency. The rental agency then responds to the Turnaround Report identifying vehicles to add to or terminate from the program. Rental agencies pay a fee of $1 per month/per registered vehicle to the Department. The agencies also add and terminate registrations periodically throughout the year. STARS batch programs support the generation of the Turnaround Report, updating of plate records registered in and terminated from this program and processing of the program fees paid.

As new summonses enter the system, those that are determined to belong to a registered rental plate are updated so that they are identified as being lessee-liable. A weekly report detailing the date and time of each summons is produced by STARS and delivered to the appropriate rental agency in either electronic or hard-copy format. The rental agency responds by supplying the Department with the name and address of the party who leased the car during the time of issuance, and is, therefore, liable for the ticket. These names and addresses are captured and stored in STARS and dunning activities begin against the lessee.

If the rental agency does not respond with the name and address of the lessee on record within the allotted time, they become liable for the debt. These summonses are listed on a monthly report, produced by STARS, which serves as correspondence to the rental agency and is used by them to make payments and adjudicate summonses for which they believe they are not liable. Some of the other functional components of STARS include:

- **Stolen Plate Processing –** With weekly information on vehicles that are stolen and recovered, obtained from the New York State Police Information Network, STARS maintains a database of stolen plates and utilizes it to automatically dismiss parking summonses issued during the period a plate was stolen. Once STARS learns that a vehicle has been recovered, any summonses issued after the recovery date that were previously dismissed are reinstated.

- **CityScoff Subsystem –** A file generated from the City's payment department is read into STARS each month in an attempt to identify New York City employees who owe parking debt. Several STARS programs are in place to identify matches, refer the debt to the CACS collection system and produce specialized correspondence to these debtors. Other collection activities within the CACS system, such as bank executions, whereby the City makes a claim to the bank in which a debtor's account has been located to get funds directly out of that account, are supported by additional STARS batch programs.

- **Management Reporting –** A series of monthly management reports are generated out of STARS. Programs extract data, match summons and plate information, and report on

the data in a variety of ways. Among other things, monthly statistics are provided for issuance, adjudications, payments, receivables and collections.

- **Vehicle Seizure Enforcement –** STARS supports plate inquiries initiated by tow enforcement teams in the field equipped with handheld devices accessing weekly tow eligible data as well as real time Mobile Digital Terminals. Field personnel are able to ascertain if a vehicle is tow-eligible as a scofflaw. There are currently 121 terminals in use by the City Marshals and the Sheriff's Office. On average, 8,000-10,000 inquiries are made on a daily basis. Within the first six months of 2013, this activity has been replaced with the use of booting, immobilizing the vehicle in-place. Using vehicle mounted cameras to scan plates of vehicles parked on the street, a match is made against a file of all plates that are possibly eligible for restraint. When a match is made, an automated real-time lookup is initiated to the STARS application for confirmation of eligibility.

- **Scofflaw Registration Suspension –** During the STARS monthly batch cycle, NY registrants identified as having at least 5 outstanding judgment summonses issued in a 12-month period are identified and included in an electronic feed to the New York DMV so that the registration can be suspended. STARS daily batch programs recognize when one of these scofflaws satisfies their debt and automatically send an electronic clearance transaction to the NYS DMV so that the registration suspension is lifted.

- **Bankruptcy Processing –** STARS daily and weekly batch cycles support the processing of owners identified as being protected by a bankruptcy stay. When a bankruptcy hold is applied to an owner in STARS, batch programs update the owner's summonses by backing out invalid penalties and interest, when appropriate, and placing holds on the accrual of future penalties and interest. Additional programs produce reports to track bankruptcy cases and generate correspondence to these owners.

- **Purge and Write-off –** On a monthly basis, a STARS batch stream identifies summonses that meet Department-determined criteria for the write-off of unsatisfied debt and the purging of satisfied debt. Any summons meeting these criteria is reported on, retained permanently on physical media and deleted from the STARS databases.

- **Diplomatic Plate Processing –** Summonses issued to vehicles with Diplomatic license plates require special handling in STARS. A monthly STARS program processes a file from the U.S. State Department with every active diplomatic plate ID, the country to which it belongs and the name and address of the diplomat to whom it is assigned. This information is updated to the STARS plate database. Additional batch programs are run to report on the debt associated with these countries for tracking and collection activities.

It is important to understand that these are summary descriptions and that the complexity lies within the details of the obscure scenarios, timing issues and the many interdependencies across functions and batch cycles. Using the function of Special Plate Processing as an example, the *Process Flow* Example below illustrates the challenge in maintaining a system of this size

and complexity by stepping through the flow of processing a summons issued to a rental car or a fleet vehicle that calls upon just some of a myriad of interconnected procedures and processes. The background depicts the universe of STARS batch processing jobs and highlights those that support this functionality.
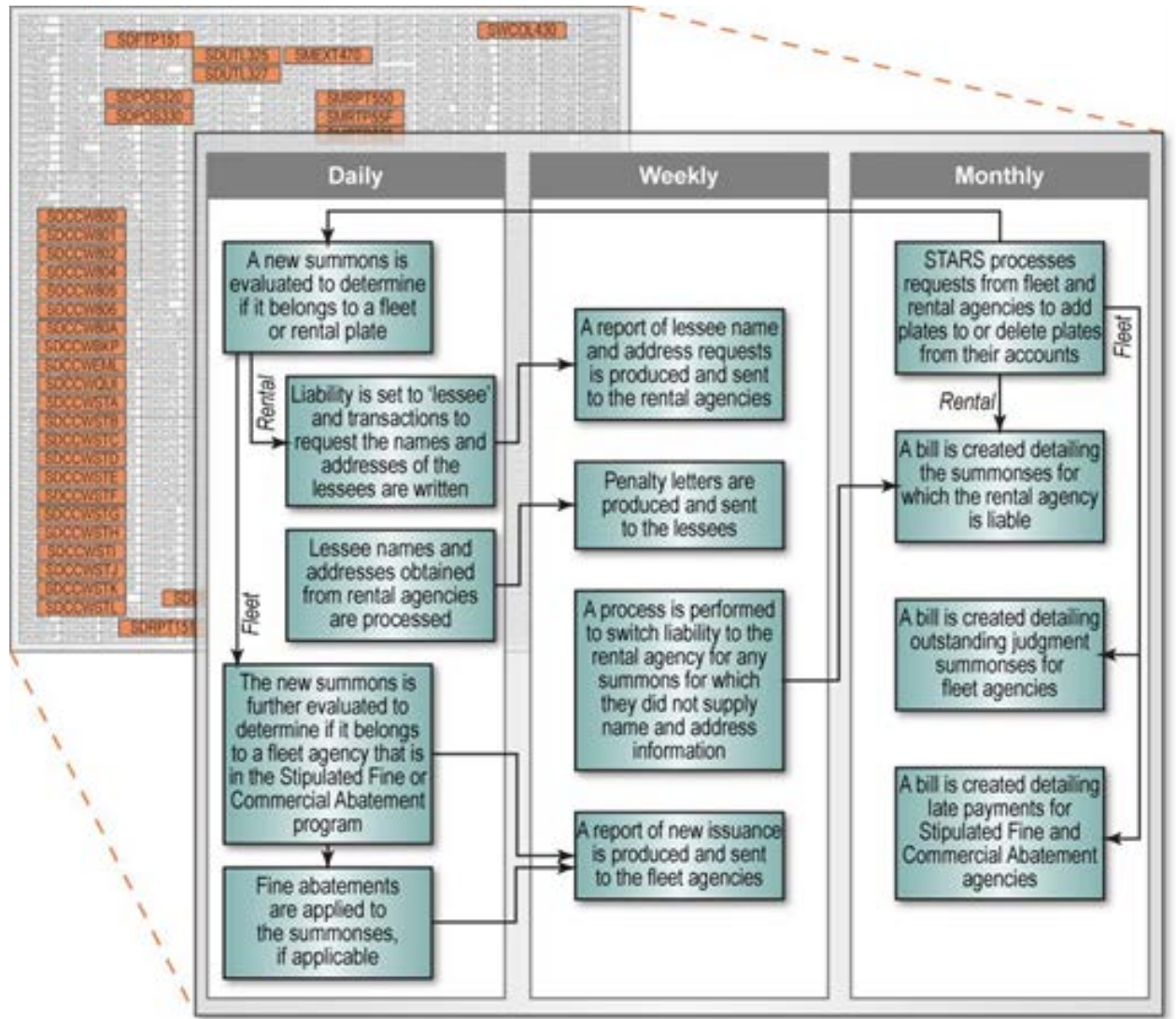
Batch Process Flow

Figure 3.5

3.4.1.6 - EXAMPLE STARS Batch Daily, Weekly, Monthly, Penalty Flow

EXAMPLE PROCESSING TRIGGERING FLOW CHART

SDRED010
(manually submitted by N.Y. helpline)

SDSEN010
(manually submitted by N.Y. helpline)

FTPBOAG
(Retrieves file from bank of america)

SDCKPTPM
(run at 17:30, mon-fri)

SDDELLET

PVBSAVBK
(run's at 15:00, mon-fri)

SDDPA10A

SDDPA101

SDDPA110
MANUALLY SUBMITTED WITH LOCKBOX TAPE PROVIDED BY THE BANK)

SDRPT122

SDCKPMRP
(run at 18:30, mon-fri)

DAILY
(Comes in Mon-Fri @ 18:00 hrs)

SDEXT220

SDDPA401

SDRPT123

SWAVPSCP
SWECBCPY

These jobs run Monday at 02:00 hrs. they copy the AVPS and ECB weekly files that are ftp'd to CGI-AMS over the weekend. They will eventually be input into Monday daily's SDFREND1.

SDCKPTAM
(run at 06:00, mon-fri)

SDEXT300

SDUPD001

SDRPT001

SDUPD391

SDDPA260

SDRPT271

SDCKAMRP

SDDPA245

SDEXT200

SDRPT366

SDPRE017

SDRPT180

SDSEN015
(manual dependecy)
(sdsen010)

SDEM010

SDSEN140

SDCCWSTA
Runs mon-fri 07:00

SDCCWSTG

SDRPT485

SDADR002

See preed page

SDEXT900
(run's at 21:00, mon-fri)

SDRPT910

SDSEN160

SDCCWSTB
Runs mon-fri 09:00

SDCCWSTH

SDDPA410

SDADR300

SDCCWSTC
Runs mon-fri 11:00

SDCCWSTI

SDUPD700

SDCOL280

SDUPD180
(see preed page for dependecies)

A
(to page 2)

SDACS320

SDACS310

SDCCWSTD
Runs mon-fri 13:00

SDCCWSTJ

SDCCW800
(BSYS)

SDCCWQUI
(BSYS)

SDUPD150
(Dependency of SDCCW800)

B
(to page 3)

SDCCWSTE
Runs mon-fri 15:00

SDCCWSTK

SDCCW802
(Mon – Fri @ 21:00)

SDCCWEML
(BSYS)
Runs every 2 hours,daily
No depency's

SDCCW80A

SDCCW801
(BSYS)

SDCCW804

SDCCWSTF
Runs mon-fri 17:00

SDCCWSTL

SDCCW805

SDCCWBKP

SDCCW806

SDEMCCW

PG 1

Figure 3.6

Note: This is for example purpose only; there are several hundred batches that run systematically to achieve desired business goals. A full list of such batches and descriptions will be provided to the selected vendor.
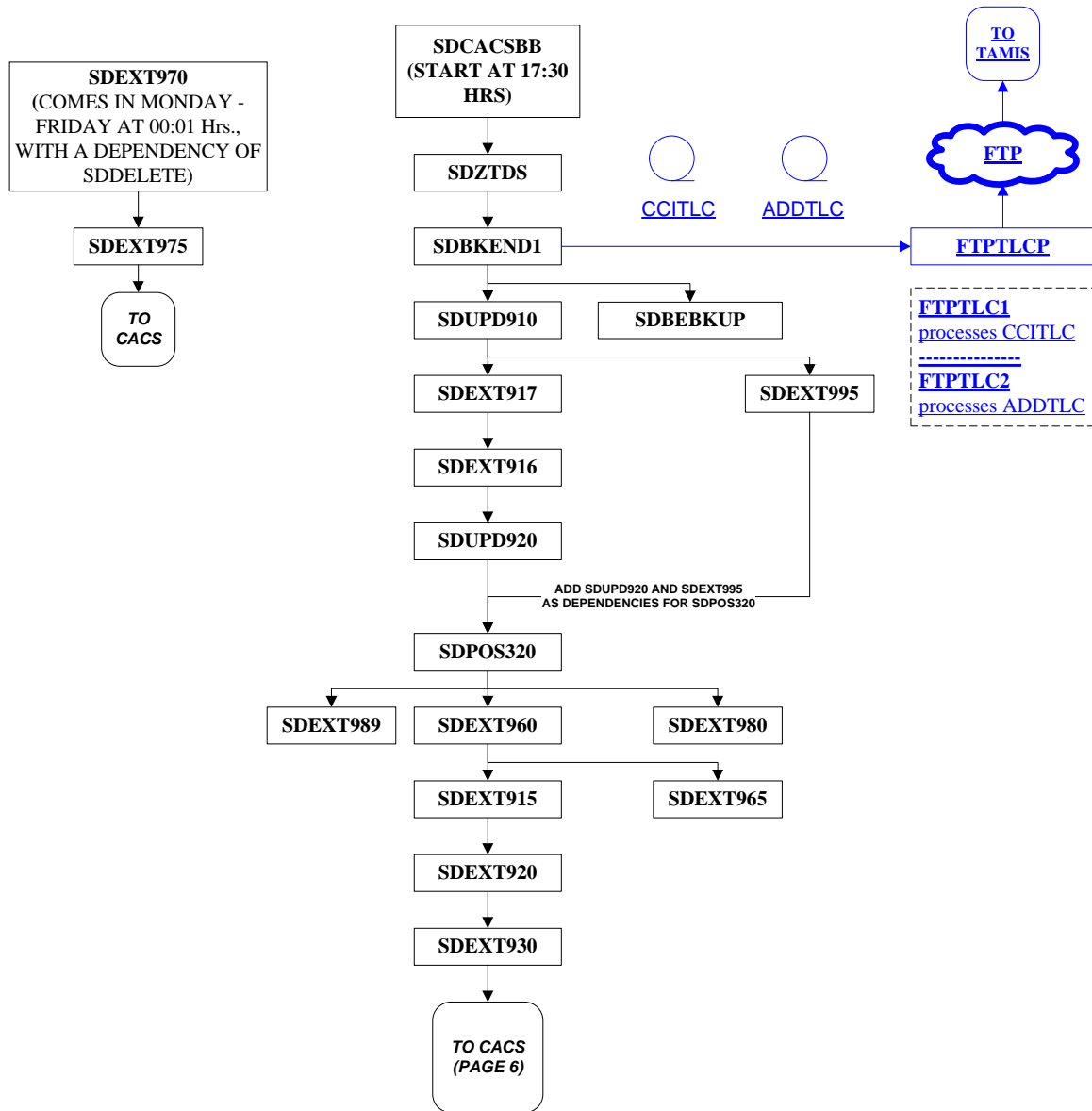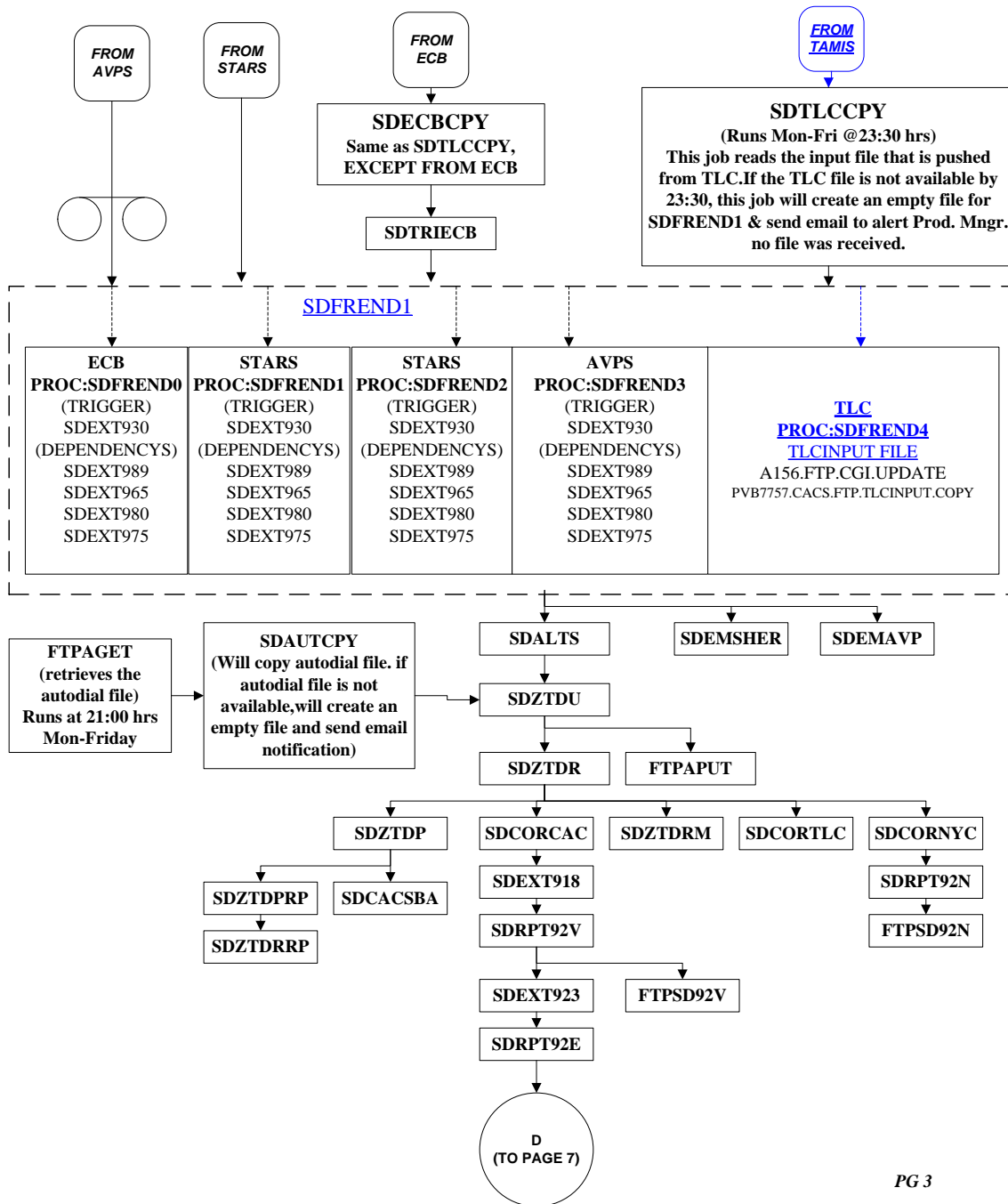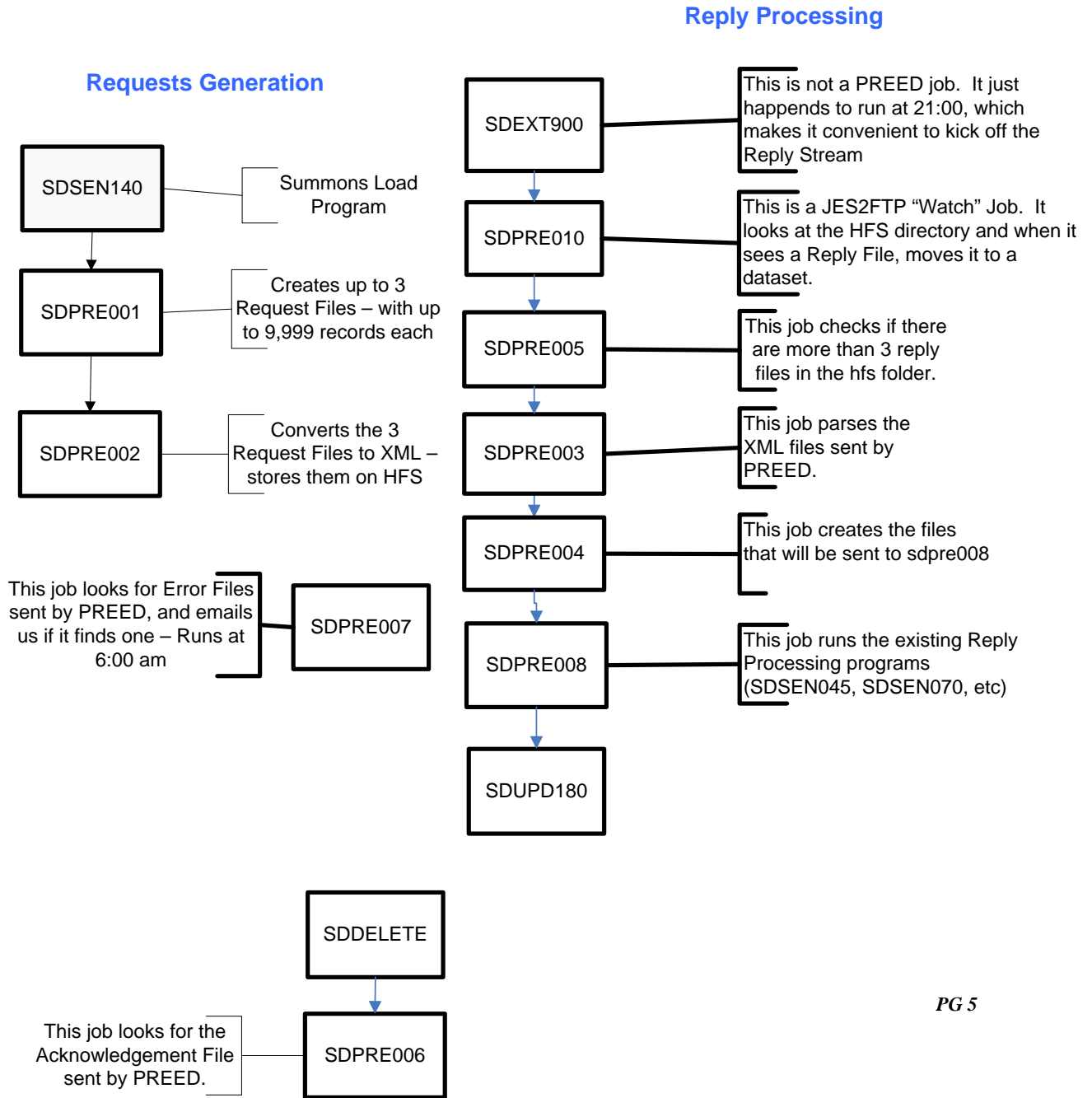
EXAMPLE PROCESSING
TRIGGERING FLOW CHART

SDEXT970
(COMES IN MONDAY -
FRIDAY AT 00:01 Hrs.,
WITH A DEPENDENCY OF
SDDELETE)

SDEXT975

TO CACS

SDCACSBB
(START AT 17:30 HRS)

SDZTDS

SDBKEND1

CCITLC   ADDTLC

TO TAMIS

FTP

FTPTLCP

FTPTLC1
processes CCITLC

FTPTLC2
processes ADDTLC

SDUPD910   SDBEBKUP

SDEXT917   SDEXT995

SDEXT916

SDUPD920

ADD SDUPD920 AND SDEXT995
AS DEPENDENCIES FOR SDPOS320

SDPOS320

SDEXT989   SDEXT960   SDEXT980

SDEXT915   SDEXT965

SDEXT920

SDEXT930

TO CACS
(PAGE 6)

PG 2

Figure 3.7

EXAMPLE PROCESSING
TRIGGERING FLOW CHART

Figure 3.8

Requests Generation

SDSEN140 — Summons Load Program

SDPRE001 — Creates up to 3 Request Files – with up to 9,999 records each

SDPRE002 — Converts the 3 Request Files to XML – stores them on HFS

This job looks for Error Files sent by PREED, and emails us if it finds one – Runs at 6:00 am — **SDPRE007**

Reply Processing

SDEXT900 — This is not a PREED job. It just happens to run at 21:00, which makes it convenient to kick off the Reply Stream

SDPRE010 — This is a JES2FTP "Watch" Job. It looks at the HFS directory and when it sees a Reply File, moves it to a dataset.

SDPRE005 — This job checks if there are more than 3 reply files in the hfs folder.

SDPRE003 — This job parses the XML files sent by PREED.

SDPRE004 — This job creates the files that will be sent to sdpre008

SDPRE008 — This job runs the existing Reply Processing programs (SDSEN045, SDSEN070, etc)

SDUPD180

PG 5

SDDELETE

This job looks for the Acknowledgement File sent by PREED. — **SDPRE006**

Figure 3.9

Note: This is for example purpose only; there are several hundred batches that run systematically to achieve desired business goals. A full list of such batches and descriptions will be provided to the selected vendor.

3.4.2 - CACS Overview

The Department of Finance is responsible for the billing and collection of payments of the City of New York's property taxes, business and excise taxes, fines related to parking tickets and camera violations. The Department is also responsible for enforcing default judgments on these payments when they become delinquent, as well as default judgments for delinquent payments related to violations adjudicated by the City's Office of Administrative Trials and Hearings ("OATH"). The Department uses its CACS system to aggregate judgment debt into collection "cases" and manage these cases through the various dunning and enforcement activities carried out by the Department's Collections Division.   The Department uses its CACS system to aggregate judgment debt into collection "cases" and manages these cases through the various dunning and enforcement activities carried out by the Department's Collections Division. These activities include:

- Restraining debtor bank restraints;
- Issuing dunning notices
- Administering call campaigns
- Assigning cases to outside collections agencies
- Identifying cases for litigation.

The following summarizes the high-level overview of CACS.

Case Movement through CACS

Collection cases within CACS are organized into a hierarchical framework consisting of three elements: (1.) Location, (2.) Functional Area, and (3.) State. CACS supports the definition of one or more Locations. Each Location could contain one or more Functional Area(s). Each Functional Area could contain one or more State (s). Each collection case within CACS resides in a specific State. By definition, all cases residing in a particular State await a defined type of collection action. These collection actions may include initial contact with an external customer, review by a DOF supervisor, pending promise to pay, etc.

Locations

Location is the highest level of the hierarchical framework of case organization within CACS. The Location defines an organizational unit. While locations may be associated with different geographic locations of collection facilities, they can also represent a logical division of collection cases.

The Location may be defined as required to support varying collection policies and procedures within the organization. For example, collection centers specializing in the collection of certain types of debt could be defined as separate locations. By defining each of these groups as a separate location, varying business policies can be enforced through CACS. Users with management capability control the collection strategy of a Location through the Location Table

and Location Parameter table. The type of processing which is location-dependent is briefly described below.

1. The entry of cases into CACS is determined by defined and distinct business rules dependent on Location parameters for receivable amounts and default status. Location parameters also control rules for the movement of cases within a location.
2. CACS provides location-wide security. A case may only be assigned to one location, and movement to another location must be initiated by the host accounting system. Only users with a specified capability or cross-location ability may access cases in more than one location.
3. CACS provides a flexible, management defined, on-line Primary Collection data display. Each Location defines the type and sequence of screens which best apply to its collection strategy.

The following figure displays three sample locations: Fleet Collections, Rental Collections, and Commercial Collections.
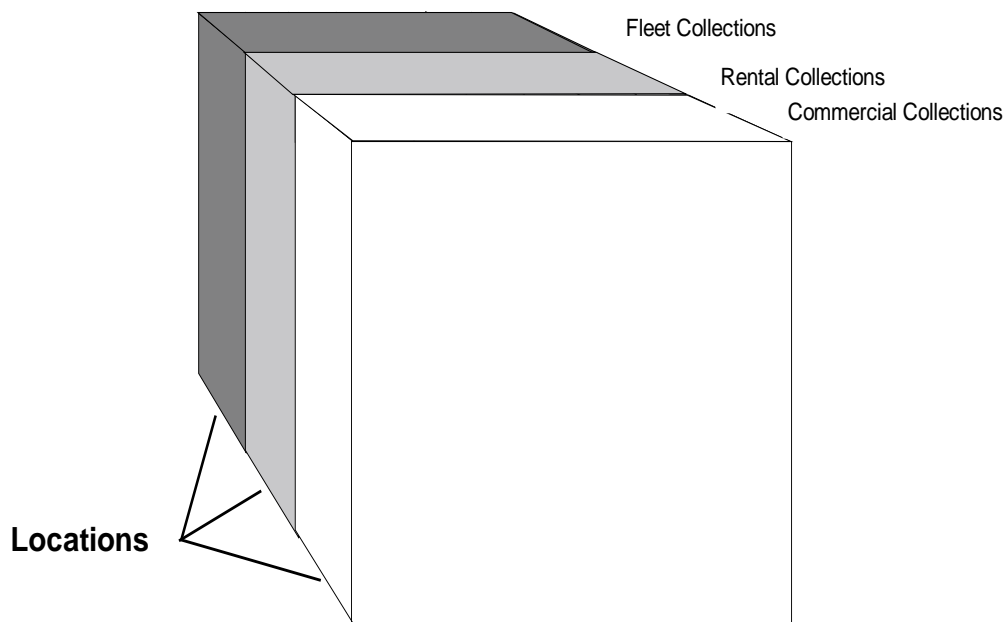
Figure 3.10

Functional Areas

CACS divides cases within a location into groups called functional areas. It is customary, in a collections department, to organize the work force according to specialized work activities. CACS models this organization using the concept of functional areas. A *functional area* consists of a group of cases with similar collections characteristics worked by individuals who normally report to one or more supervisors. For example, Commercial cases that have received summonses in the last nine months might be grouped into one functional area while those that have not received summonses in the last nine months could be grouped in another.

CACS provides the ability to control the flow of cases from one functional area to another, and to establish user security by functional area. Collection managers control the collection strategy within a functional area through the Functional Area Parameter Table. The functional area parameters establish criteria such as the minimum acceptable payment percent, and the number of days between state assignment evaluations. The following figure shows seven sample functional areas: *Inactive*, *Special Activities*, *Bankruptcy*, *District Office*, *High Risk*, *Moderate Risk*, and *Low Risk*.
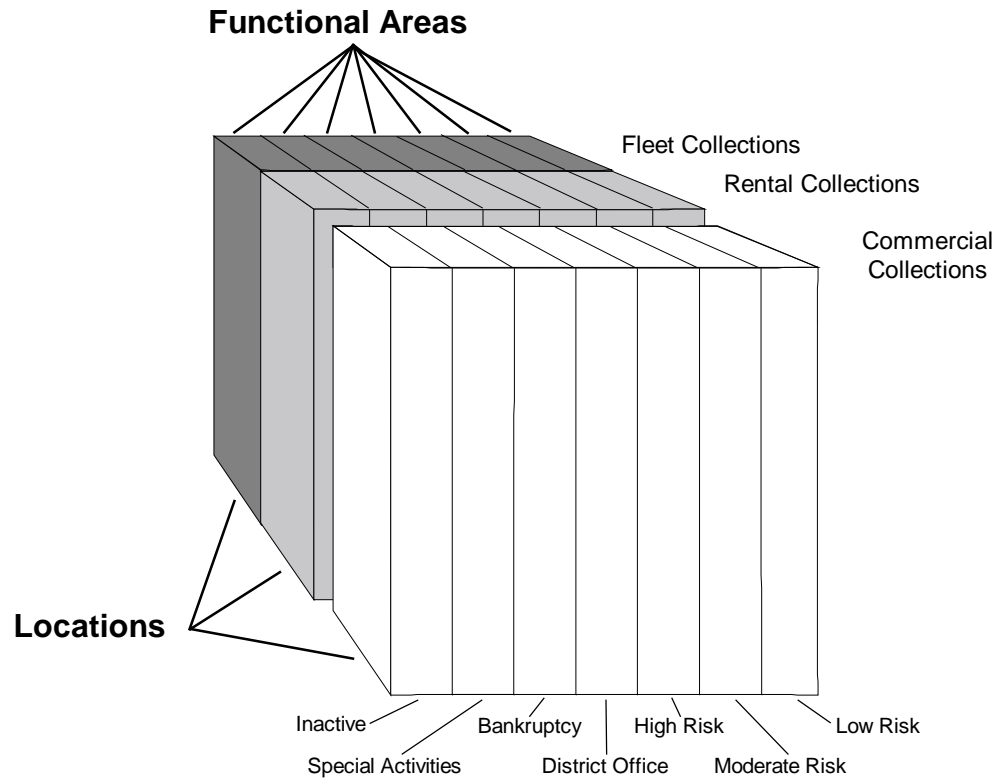
Figure 3.11

States

Within a functional area, CACS groups cases with the same characteristics and requiring similar collection actions into the same *state*. For example, all cases waiting initial contact would be in one state and cases for which the customers cannot be found would be in another. Some states contain cases for supervisors to review. In other states, cases are waiting for an event to take place, such as the receipt of a promised payment or return. When these events or actions take place, a case may be transferred, or *routed*, from one state to another within the functional area. If an event significantly changes the status of a case, it can be routed to another functional area. Specified states may also be re-evaluated using management-defined state assignment rules, possibly resulting in a state change. The following example demonstrates how various functional areas are divided using states:
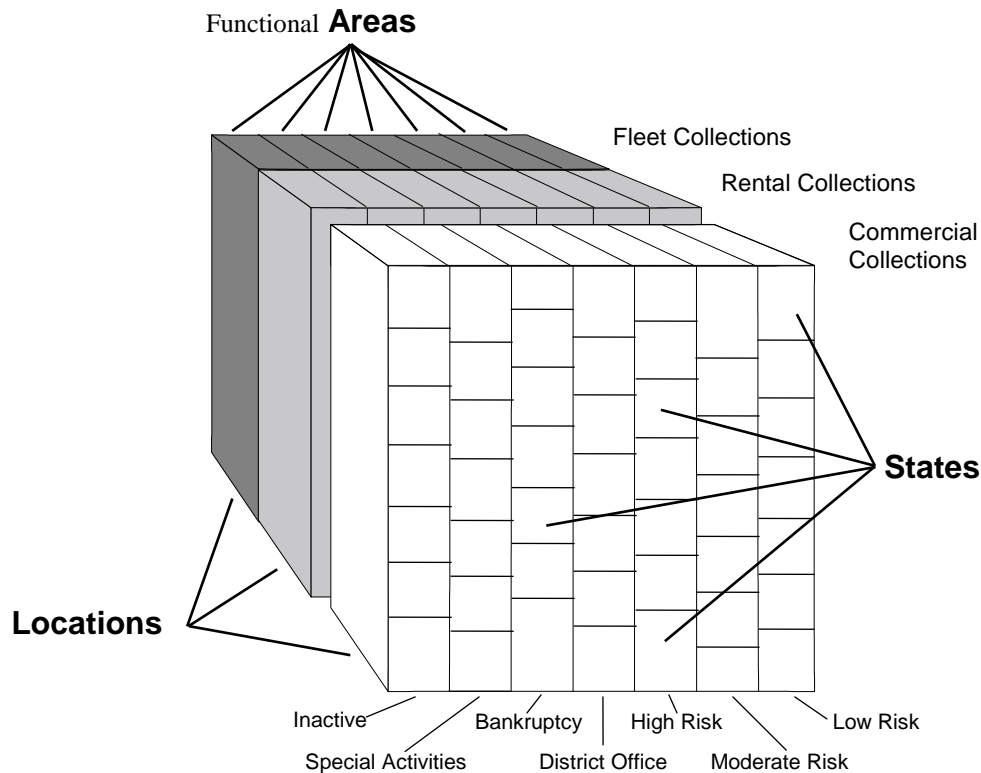
Figure 3.12

Each state has several attributes which are defined through the Function State parameter table. A brief description of some of these attributes is presented below.

1. The Classification can be defined as: (1) Work — collector or group work list, (2) Review — supervisory review list, and, (3) Hold — a holding state for a promise of payment or promise to file.
2. The Associative indicates whether or not the case has a responsible user assigned to it. Associative indicates that the case has an associated responsible user while Non-Associative indicates the case is not necessarily connected to a particular user.
3. The Use Collector Assignment specifies whether or not the Collector Assignment table should be used to assign cases in the state to specific collectors.
4. The Use Letter Sequences specifies whether or not cases in the state are to receive a series of automatic letters as defined by the Letter Sequence table.
5. The Append indicator specifies whether a case should be appended immediately to the end of a work list on the same day it is routed to the state, or whether it can be processed later. Append lists are usually reserved for supervisors.

6. The Entry State indicates whether the state is one to which cases can be manually routed from outside the functional area, or whether the state cannot be entered from outside the functional area.
7. The Minimum Capability Level defines the minimum security level a user must have in order to route a case out of the state.
8. The Sort Criteria establishes the priority order in which the cases will appear on the work list.

New states can be added as required through the State table

Work Lists

Within a state, cases that are scheduled for collection activities may be divided into *work lists*. A work list may be associated with one particular user, a group of users, or it may be accessible to a number of users.

If a state is defined as associative, CACS distributes the cases in the state among various work lists. Each work list is associated with a particular collector or group, referred to as the responsible user. Cases which are currently referred to an outside agency will have the agency as their responsible user. Cases within the state may be assigned a responsible user manually or automatically by the system. One method of assignment is through the Collector Assignment table, which uses management-defined criteria to associate cases with a particular collector or group. For example, collectors working a waiting call state may use an assignment scheme based on customer name and receivable amount.

States which are not associative will have one work list which any number of users may be authorized to work.

Process Flow of Assignments to Outside Collection Agencies

Process Clarity on Parking/ECB debt and how cases are assigned to OCAs:

Process for New Eligible CACS Debt (New Owners):
1) STARS runs a 'Monthly Sweep' process to identify eligible CACS debt on the last weekend of the month
2) CACS will accept summons level data and combine the summonses into cases at the Owner or Debtor level
3) Eligible OCA debt is identified (DOF Collections may decide to work case internally)
4) Elimination criteria are run to locate assignable debt (e.g., criteria eliminate bankruptcies, CityScoff, and Lessee Liable)
5) Assignable record created in CACS
6) Case issued to OCA
7) An assignment file is sent to the OCA; simultaneously, a file is sent from CACS to STARS cataloguing the Assigned and Unassigned debt file

Previously Assigned Owners: STARS and CACS
1) If an owner has been *previously* assigned to an OCA, the **weekly** 'Add On' stream from STARS locates new judgment debt for these owners and issues the new debt to the OCA (see below definition of 'Add-On') in a transaction file.

Forward Flow vs. Add Ons:
Forward Flow Process - **new** cases are **automatically** forwarded to the OCA for collection on a **monthly** basis if eligible.
        a. Turned <u>on</u> for OOS ECB debt & for all Parking debt
        b. Turned <u>off</u> for in-state ECB debt (meaning that after 15 days in a welcome state, the case is routed to an OCA-ready state – it is **not** automatically transferred to the OCA)

Add-Ons – new judgment debt for a case that is currently placed with an OCA.
        a. Parking summonses are automatically sent on a weekly basis if eligible.
        b. ECB summonses are sent monthly from ECB.

(Examples of timing provided on next page.)

Timing Examples:

Parking
If an Owner is currently placed with an OCA and their summons enters judgment, the summons will automatically be added to the OCA placement the **weekend it goes into judgment.**
Example: Summons A enters judgment during first week in April and is sent to OCA on April 6th.

If an Owner is **not** already placed with an OCA and their summons enters judgment, the summons will be picked up on the Monthly Sweep described on page 1. It may take anywhere between 1 – 31 days to be forwarded to the OCA, depending on when the summons enters judgment.
Example: Summons B enters judgment during <u>first week in April</u> and is sent to OCA on April 27th.
Summons C enters judgment during <u>last week of April</u>, summons is sent to OCA on April 27th.

ECB
1. <u>OOS</u> – Regardless of whether an Owner is currently placed with an OCA, should their summons enter judgment, the summons is placed in a welcome state in CACS.
Summons will then automatically be added to the OCA placement after 15 days.

2. <u>In-State</u> - Regardless of whether an Owner is currently placed with an OCA, should their summons enter judgment, the summons is placed in a welcome state in CACS.
Summons will then be automatically added to an **OCA-ready state** (will stay here until a backlog assignment is decided by Collections).

3.5 - Current Technical Environment

The table below summarizes the technical environments for both the STARS and CACS systems.

STARS & CACS

Product		DoITT			Required or Equivalent			Comments
		Ver	Rel	Mod				
z/OS								
z/OS		**1**	**13**					
System Tools								
TWS					√			**Tivoli Work Scheduler**
SDSF								
SCLM - source code library mgr								**Customized Panels**
FATS/FATR		**4**	**8**	**52**				
FDR / ABR / CPK		**5**	**4**	**75**				
PKZIP		**11**	**1**					
SAS/MXG		**2**	**8**	**28**				
Tivoli Omegamon II - MVS		**4**	**2**					
Tivoli Omegamon II CICS		**4**	**1**					
VPS		**1**	**8**	**0.1015**				
JES2Mail / JES2FTP		**4**	**7**		√			
VSAM / ASSIST		**6**	**8**					
$AVRS		5	1.B	9				
ACF/NCP		**7**	**8**	**1**				
ACF/SSP		**4**	**8**	**1**				
NetView		**5**	**4**					
NetView FTP		**2**	**2**	**1**				
NPM		**2**	**7**					
ADABAS								
ADABAS		**8**	**1**	**4**				
ADABAS Native SQL		**2**	**4**	**1**				
ADABAS SAF		**8**	**1**	**2**				
Natural		**4**	**2**	**6**				
Predict		**4**	**6**	**1**				

ADASTRIP - Treehouse		**5**	**2**	**q**		**√**			
REVIEW									
CICS									
CICS Transaction Server		**3**	**2**						
Xpediter		**8**	**3**	**1**					
CEMT Batch									
Languages									
Enterprise COBOL		**4**	**2**						
IBM COBOL for 0S/390 & VM									
PL/I for z/OS and OS/390		**3**	**09**						
SAS		**9**	**2**						
Application Tools									
Code - 1		**3**	**4**						**monthly updates**
Group 1 - Mailstream Plus		**3**	**6**			**√**			**monthly updates**
Group 1 - US Postal Database		**3**	**6**						**monthly updates**
Group 1 - USPS Ref File Monthly		**3**	**6**			**√**			**monthly updates**
Geo-Code		**10**	**9**	**10D**		**√**			**city planning dept driven**
FileAid		**9**	**2**						
Jobscan		**7**	**4**						
Quickref		**7**	**2**						
Trillium - Harte Hanks		**7**	**8**	**6**		**√**			
Development Tools									
Compuware License Management		**4**	**0**						
Compuware Shared Services		**8**	**7**						
Xpediter		**9**	**0**						
HourGlass									

Table 3.1

3.6 - Overview of the Software Products in STARS Processes

ADASTRIP

ADASTRIP is a powerful utility for extracting data from ADABAS databases and/or backups. In a single pass of a database back-up file, ADASTRIP can extract all of the required data from an application for further processing. Simple parameters specify the field and data selection criteria and field definitions are automatically extracted directly from the back up or database.

ADASTRIP is a critical productivity tool used by the staff to produce data extracts required to satisfy data requests and analyses that are submitted with short turnaround requirements. The primary requestors include the Executive offices of Finance, the office of Management and Budget (OMB), the City Council, and the press. ADASTRIPS ability to produce extracts efficiently and quickly is key to enabling the support team in meeting the often short turnaround time requirements that otherwise could not be met. Significant productivity savings are achieved by development staff by not having to write SQL statements and programs to extract and process the data.

Trillium

Harte-Hanks Trillium is a software product that enhances data quality and ensures consistency with repeatable processes employing industry standard and custom processing rules. In the normal course of business, thousands of individual correspondence outputs are generated and processed for mailing. Given the volumes of mailed correspondence, it is critical that the most accurate address information is utilized to ensure timely delivery at the most cost effective price. Achieving these goals is accomplished in large part by the data cleansing and standardization provided by the Trillium software. Key elements provided by the Trillium software include:

- Address Validation and Correction Software:
- Apply local standards to addresses across the globe
- Unlike competing software comprised of third-party international address modules, Trillium Software System address validation rules were built in-house, from the ground-up, incorporating native expertise from each country.
- Certified to ensure precise postal information
- Out-of-the-box, the Trillium Software System automatically assesses data to detect the appropriate country of origin and apply the correct, localized rule set, updated to the most current level of data sophistication available. At the most robust level, for nations such as the U.S. and Canada, we even offer Delivery Point Validation (DPV)[1] to verify address existence. We are also certified by postal authorities in Australia, U.S., and Canada.
- International Address Validation
- Sophisticated name and address cleansing

- **Parsing**: Identify and extract data attributes within structured and unstructured data sources to ensure components are relocated to correct fields.
- **Data Standardization**: Standardize individual name and address elements, telephone numbers, email-ids, customer-ids and any other attributes to ensure consistency across your business. Correct spelling and other errors.
- **Data Enrichment**: Add missing postal information, salutations, business-specific data, latitude/longitude and other reference data

Dynamic File Access

Dynamic File Access (DFA) is an on-line utility tool that gives the user/programmer immediate access to any Adabas file he wishes to access dynamically. With DFA the user can view, update, add and delete records in an expedient manner depending on his security.
With DFA the user/programmer can view all the fields/arrays that are on any file (even when there are hundreds of them), and the "Search" functionality will allow the user to find any field he wishes to view within seconds.

DFA is an essential tool for data related tasks; it is used extensively by our customers for testing, maintenance of systems and data verification. The DFA utility is a key component of the STARS development team's tool kit. Used in the development and test regions of the STARS environment, the development team is able to efficiently create test scenarios and examine test results. With the ability to manipulate data values online, staff can quickly recreate data conditions that resulted in data exceptions in production processing, or specifically force error conditions to test specific areas of program logic.

VSAM/ASSIST

VSAM/ASSIST is a high speed VSAM dataset utility that performs backup and restore functions using an interface to IDCAMS, REPRO, and IMPORT/EXPORT and is usually faster than IDCAMS. It provides single line command formats to back up or restore one or more VSAM clusters. Options include space allocation and CISIZE adjustment, and dataset rename and/or replacement. VSAM cluster statistics are also available through this utility. VSAM/Assist is used by production support to backup and maintain the VSAM file datasets utilized by the CACS application.

JES2MAIL / JES2FTP

JES2Mail and JES2FTP are z/OS based programs specifically targeted at the transformation and efficient/secure "push" delivery of mainframe print content via Email and FTP - in standard universally supported formats (i.e., PDF, HTML, RTF, comma-delimited, and XML.) The products can be used standalone; or in concert with traditional "Report Distribution and Archiving Systems", such as CA-Deliver, to append a robust "push" delivery capability.

JES2Mail is a critical component in the management and delivery of STARS generated output to internal agency staff and external clients such as companies registered in the Fleet programs. Using the software products as part of the batch processing cycle, secure electronic delivery of reports and other outputs was enabled. This created significant productivity savings and costs associated with the handling, packaging and mail delivery of hard copy outputs.

CICS Application File Control (CAFC)

CAFC is an operations aid for CICS users striving for quality service and high systems availability. The product organizes information to simplify (1) CICS region start-up and shutdown, (2) the activation and deactivation of entire applications and their supporting CICS resources and (3) the swapping of files and data bases between batch jobs and active CICS regions. To perform these functions CAFC monitors and enhances direct and indirect CICS commands that affect the status of resources such as files, transactions, data queues, DLI data bases and shared data tables.

In the STARS / CACS environment, CAFC is used to control access to VSAM files for the CACS application. By using the capabilities of the product's logical lists, files can be made available to the CACS batch streams for processing updates, running backups, and generating reports.

$AVRS – JCL SYSOUT, SYSLOG ARCHIVAL VIEWING AND RETRIEVAL SYSTEM

$AVRS completely automates the accumulation, viewing, archival and retrieval of JCL, SYSOUT, SYSLOG, JOBLOG and other critical JES output. $AVRS will save an installation up to 90% of the human and machine resources presently allocated for these tasks. $AVRS provides significant savings in printer and paper costs by allowing users to access system information online rather than printing it. In addition, $AVRS significantly reduces the personnel and system resources required to review failed jobs and JCL errors.

Using $AVRS, DOF is able to create and electronically send reports to vendors and other government entities by defined processes that pull data from various job datasets. $AVRS automatically archives outputs according to defined schedules and deletes older archives as they expire, eliminating the need of constant manual monitoring and administration.

3.7 - Program Counts

The following table summarizes the counts of the various programs that are found in STARS.

STARS Programs		Count
Natural Modules / Programs		Over 1069

Batch Programs		1581
Batch Cycles		**# of Jobs**
Daily		Over 275
Weekly		Over 225
Penalty		Over 100
Monthly		Over 400
ADABAS and VSAM files		**42**
Database Records		
Plate		47,000,000
Summons		31,000,000

Table 3.2

The following table summarizes the counts of the various programs that are found in CACS.

CACS Programs		**Count**
Online Cobol/CICS programs		144
Online CICS screens		60
Batch Programs		231
VSAM Records		
Active Cases		1,558,643
Inactive Cases		2,021,831
Total		3,580,474

Table 3.3

3.4   Department Assumptions Regarding Contractor Approach

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

Experience
- The vendor must have a minimum of five (5) years' experience providing application maintenance and support services in environments of similar size and complexity to those detailed in Section 3.0, Current State. Prior government sector experience should be noted when applicable.

- It is expected that proposed staffing has experience and technical expertise that is comparable to the position qualifications detailed in Section 3.3

- The Proposer must guarantee that the key persons, or similarly qualified persons, assigned to the Contract have the relevant experience and qualifications required and that the identified key staff, or similarly qualified persons, will be available for the contract term.

Organizational Capability
- Describe company's background and how your company has evolved and is now organized.
- Proposer's organizational (i.e. technical, managerial and financial) capability to provide the services described in this RFP.
- Proposer's capacity to integrate the RFP services into its organization.
- Supply three (3) years' Annual Reports to Shareholders and financial statements certified by a public accountant for your company.
- Demonstrate that the application maintenance and support can integrate with existing production control and quality assurance processes.
- Proposed customer service support team
- How do you manage staff turnover during a long and complex project?

3.4.3   Approach:
- State your understanding of the project's objectives and goals.
- Describe your proposed methodology for supporting and maintaining STARS & CACS.
- Explain your expectations with respect to level of support the Department must provide to the project: what work you expect the Department to perform.
- Your methods for analyzing and documenting the existing system including, Validation of business and technical requirements, Gap analysis, Requirements traceability, Providing recommendations for changes in requirements, Technologies you propose to use.

3.5   Anticipated Payment Structure

The Department shall be invoiced monthly for Application Maintenance and Support Services provided to the Department during the preceding month as documented by time reports for the individual team members. The invoiced time excludes absences due to vacation, sickness, training, or other time spent on activities not supporting the department. The total hours invoiced by the Contractor for any team member for a month will not exceed the total days, excluding weekends and holidays, times eight (8) hours per day, with any excess documented hours to be tracked as Support Bank hours that are not invoiced except as outlined below.
For each team member role, an allowance of 140 no-cost hours within a contract year will be utilized to cover time that is spent in support of off-hours and weekend activities that may be required to support and maintain STARS operations, such as nightly and weekend production batch cycles. Hours that are charged against the support bank must be tracked and reported monthly, an invoiced at a discounted rate once an individual's allowance has been exceeded.

However, the Agency will consider proposals to structure payments in a different manner and reserves the right to select any payment structure that is in the City's best interest.

3.6   Participation by Minority-Owned and Women-Owned Business Enterprises in City Procurement

If the contract resulting from this Request for Proposals will be subject to M/WBE participation requirements under Section 6-129 of the Administrative Code of the City of New York, as indicated by the inclusion of Schedule B – M/WBE Utilization Plan (Attachment K) and the Participation Goals indicated in Part I thereof, proposers must complete the Schedule B – M/WBE Utilization Plan and submit it with their proposal.   Please refer to the Schedule B – M/WBE Utilization Plan and the Notice to All Prospective Contractors (Attachment H) for information on the M/WBE requirements established for this solicitation and instructions on how to complete the required forms. If the proposer intends to seek a full or partial waiver of the Participation Goals on the grounds described in Section 10 of the Notice to All Prospective Contractors, including but not limited to, proposer's intention to use its own forces to perform any or all of the required contract work would result in a failure to attain the Participation Goals, the proposer must request and obtain from the Agency a full or partial waiver of the Participation Goals (M/WBE Utilization Plan, Part III) in advance of proposal submission and submit the waiver determination with the proposal.   Please note that if a partial waiver is obtained, the proposer is required to submit a completed Schedule B-M/WBE Utilization Plan based on the revised Participation Goals in order to be found responsive.

3.7   Compliance with Local Law 34 of 2007

Pursuant to Local Law 34 of 2007, amending the City's Campaign Finance Law, the City established 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. For the purposes of the database, proposers are required to complete the attached Doing Business Data Form and return it with this proposal, and should do so in a separate envelope. (If the proposer is a proposed joint venture, the entities that comprise the proposed joint venture must each complete a Data Form.)   If the City determines that a proposer has failed to submit a Data Form or has submitted a Data Form that is not complete, the proposer will be notified by the Agency and will be given four (4) calendar days from receipt of notification to cure the specified deficiencies and return a complete Data Form to the Agency. Failure to do so will result in a determination that the proposal is non-responsive. Receipt of notification is defined as the day notice is e-mailed or faxed (if the proposer has provided an e-mail address or fax number), or no later than five (5) days from the date of mailing or upon delivery, if delivered.

3.8   Whistleblower Protection Expansion Act Rider

Local Law Nos. 30 and 33 of 2012, codified at sections 6-132 and 12-113 of the New York City Administrative Code, the Whistleblower Protection Expansion Act, protect employees of certain City contractors from adverse personnel action based on whistleblower activity relating to a City contract and require contractors to post a notice informing employees of their rights. Please read Section 4.07 of Appendix A, the Whistleblower Protection Expansion Act, carefully.

3.9   Compliance with the Iran Divestment Act

Pursuant to State Finance Law Section 165-a and General Municipal Law Section 103-g, the City is prohibited from entering into contracts with persons engaged in investment activities in the energy sector of Iran. Each proposer is required to complete the attached Bidders Certification of Compliance with the Iran Divestment Act, certifying that it is not on a list of entities engaged in investments activities in Iran created by the Commissioner of the NYS Office of General Services. If a proposer appears on that list, the Agency/Department will be able to award a contract to such proposer only in situations where the proposer is takings steps to cease its investments in Iran or where the proposer is a necessary sole source. Please refer to Attachment_ for information on the Iran Divestment Act required for this solicitation and instructions   on   how   to   complete   the   required   form   and   to http://www.ogs.ny.gov/About/regs/ida.asp for additional information concerning the list of entities.

3.10   Subcontractor Compliance Notice

The selected vendor will be required to utilize the City's web based system to identify all subcontractors in order to obtain subcontractor approval pursuant to PPB Rule section 4-13, and will also be required to enter all subcontractor payment information and other related information in such system during the contract term. Please read Attachment K, the subcontractor compliance notice as it relates to competitive solicitations. The City's new web based subcontractor reporting system will be located on line at the Payee Information Portal at: https://a127-pip.nyc.gov/webapp/PRDPCW/SelfService.

3.11 HIRENYC and Reporting Requirements

The Hiring and Employment Rider shall apply to contracts valued at $1 million or more for all goods, services and construction except human services contracts that are subject to the Public Assistance Hiring Commitment Rider. The Rider describes the Hire NYC process and obligations, including reporting requirements throughout the life of the contract. The Hire NYC process requires contractors to enroll with the Hire NYC system within thirty days after the registration of the contract subject to this solicitation, to provide information regarding all entry to mid-level job opportunities arising from this contract and located in New York City, and to agree to interview qualified candidates from HireNYC for those opportunities. The Rider also includes reporting requirements unrelated to HireNYC.   (See Attachment L)

3.12 Paid Sick Leave Law Contract Rider

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.   Contractors of the City of New York [or of other governmental entities] may be required to provide sick time pursuant to the PSLL. Section 4.06 of Appendix A, the Paid Sick Leave Law, will be included in any contract awarded from this RFP and will incorporate the PSLL as a material term of such a contract. Please read Appendix A carefully.

SECTION IV – FORMAT AND CONTENT OF THE PROPOSAL

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

All responses to this RFP are to be prepared and submitted at the proposer's expense. The City will not pay any costs incurred by proposers in connection with site visits, printing of proposals, oral presentations, proof of concept demonstrations or any other activities associated with the preparation, submission, or evaluation of proposals solicited by this RFP.

A vendor may submit more than one proposal, but each should satisfy the mandatory requirements of this RFP as applicable. Alternate proposals may be used to present different products, different configurations of a given product, or functional enhancements not presented in a vendor's initial proposal. All alternate proposals should be presented as separate files and clearly identified, and must be submitted together with the mandatory proposal.

The City will base its evaluation entirely on information presented in each vendor's written proposal and in any additional written or oral presentations and proof of concept demonstrations that may be requested from a given proposer. When preparing proposals, vendors should assume that the City has no previous knowledge of their products or capabilities. Proposers' descriptions of products and services should be clearly written and presented in sufficient detail to permit accurate evaluation by the City. Emphasis should be placed on clear, complete presentation of factual information.

All sections of a vendor's proposal should be prepared and submitted in a straightforward, economical manner. The first page of each proposal should be clearly labeled with the proposer's name, the name of a contact person within the proposer's organization, and the proposer's mailing address, telephone number, and email address.

While the City does not impose a limit on the length of proposals, brevity is encouraged. Informative content and clarity of presentation are more important than quantity of pages.

Embellishments that improve a proposal's appearance without affecting its content are strongly discouraged.

Proposers' responses should be prepared specifically for this RFP and address the points raised herein. Prewritten product descriptions and promotional materials, presented without reference to this RFP, are not acceptable. Technical specification sheets, product brochures, and similar materials, where provided, should be included in an appendix. Such materials should be included only to the extent that they directly pertain to information presented in the vendor's proposal.

4.1 Proposal Format

4.1.1 Proposal Cover Letter

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

4.1.2 Technical Proposal

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

i.   Executive Summary
Use this section to describe the proposer's understanding of the scope and objectives of the project, and summarize the proposer's approach, proposed staff, and estimated project duration.

a. Experience
Describe the successful relevant experience of the proposer and the proposed key staff in providing the scope of work described in Sections II and III of this RFP. (Specifically address the following:

o   Describe work you have done that involved maintenance and support of large legacy systems.
o   Describe 3 engagements of similar size and complexity that you have successfully completed for large public-sector or comparable clients.

This experience should be documented in multiple tables using the structure below. Descriptions should include:
o   Summary descriptions of the client organization (size, geographic location / scope, industry, etc.).
o   Brief descriptions of the solution delivered.
o   Scope of the effort in terms of total project cost (to the client), duration of the project, and team size (Systems Integrator resources and client resources).

Client Name and/or Description	

Description	
Project Cost	
Project Start and End Dates	
Project Team	

In addition:

Attach a listing of at least three (3) relevant references, including the name of the reference entity, a brief statement describing the relationship between the proposer, and the reference entity, and the name, title, telephone number and email address of a contact person at the reference entity, for the proposer and each proposed sub-contractor if any. Please obtain prior approval for the City to contact the references.

These references should be drawn from the projects summarized in the Experience section above, and should demonstrate the proposer's experience implementing projects of comparable size and complexity for public sector organizations (preferably other large municipal government organizations). References aligning more closely with these criteria are preferred by DOF.

References should be documented in tables using the structure below..

Reference #X	
Organization Name	
Contact Name	
Contact Title	
Phone Number	
E-Mail	
Project Role / Relationship between proposer and organization	

o Attach for each key staff position a resume and/or description of the qualifications that will be required. (In addition, provide a statement certifying that the proposed key staff will be available for the duration of the project.)

b. Organizational Capability
Demonstrate the proposer's organizational technical, managerial and financial capability to provide the work described in this RFP. Specifically address the following:

o Amount of time the company has been in business, describe how your company has evolved and is now organized

- o A brief description of the company size (number of employees, revenues) and organizational structure.
- o Technical resources (e.g., technologies or approaches that you are particularly strong in; relationships with other technology or business entities that you can draw on; tools, technologies, code libraries, etc., that you can leverage or reuse; other examples you find relevant)
- o Proposed customer service support team
- o How do you manage staff turnover during a long and complex project?

In addition:
- o Attach a chart showing where, or an explanation of how, the proposed services will fit into the proposer's organization and each proposed sub-contractor if any.
- o Attach a copy of the proposer's latest audit report or certified financial statement, or a statement as to why no report or statement is available.
- o Provide an organization chart of the proposed project team. The organization chart should also depict the key contact points between the Proposer and DOF for the duration of the project.
- o Below the organization chart include a narrative describing the organization and interactions with DOF. Include descriptions of each role identified in the organization chart in a table using the structure below. In the Description, specify the significant responsibilities of each role.
- o Provide resumes for each of the proposed personnel on the maintenance and support team.

Project Role	Description

c. Proposed Approach
Describe in detail how the proposer will provide the work in scope described in Sections II and III of this of this RFP and demonstrate that the proposer's proposed approach will fulfill the Department's goals and objectives. Specifically address the following:

- o Objectives - State your understanding of the project's objectives and goals.
- o Proposed Methodology – Describe your proposed methodology for supporting and maintaining STARS & CACS.
- o Your expectations with respect to: Level of support the Department must provide to the project: What work you expect the Department to perform.
- o Your methods for analyzing and documenting the existing system including, Validation of business and technical requirements, Gap analysis, Requirements traceability, Providing recommendations for changes in requirements, Technologies you propose to use.

4.1.3 Price Proposal

Proposers are encouraged to propose innovative payment structures. The Agency reserves the right to select any payment structure that is in the City's best interest. For the purposes of comparison, proposers should submit a Price Proposal that meets the standards of Sections 4.3(a) and 4.3(b), below.

a) Proposed Pricing

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

a. The proposed price per staff position and total offering price in the format prescribed in the Price Proposal form attached as **Attachment C.** The pricing for the teams supporting each application, STARS and CACS, should be broken down and presented separately.

b) Payment Schedule

The proposer shall indicate the schedule that they shall submit invoices to AcctsPayable@finance.nyc.gov and the DOF Project Manager.

c) Performance Outcome Measures & Financial Incentives

Proposers are invited to list and describe outcome measures of the work to be performed by them and the related financial incentives/disincentives that could potentially be applied to this contract, either in whole or in part.

4.1.4 Acknowledgment of Addenda

The Acknowledgment of Addenda form (Attachment B) serves as the proposer's acknowledgment of the receipt of addenda to this RFP which may have been issued by the Department prior to the Proposal Due Date and Time, as set forth in Section 1, above. The proposer should complete this form as instructed on the form.

4.2 Proposal Package Contents ("Checklist")

The Proposal Package should contain the following materials. <u>Proposers should utilize this section as a "checklist" to assure completeness prior to submitting their proposal to the Agency.</u>

1. A sealed inner envelope labeled "Program Proposal," containing one <u>original</u> set <u>and</u> five (5) hard copies of <u>duplicate</u> sets of the documents listed below in the following order:
   - Proposal Cover Letter Form (Attachment A)

- Technical Proposal
  a. Narrative
  b. References for the Proposer and, if applicable, each Sub-Contractor
  c. Resumes and/or Description of Qualifications for Key Staff Positions
  d. Organizational Chart
  e. Audit Report or Certified Financial Statement or a statement as to why no report or statement is available
- Acknowledgment of Addenda Form (Attachment B)
- 1 CD-ROM, DVD, or USB flash drive containing an electronic copy of all hardcopy documents submitted in response to this RFP.

2. A separate sealed inner envelope labeled "Price Proposal" containing one <u>original</u> set <u>and</u> <u>five</u> (5) <u>duplicate</u> sets of the Price Proposal.
- Price Proposal Form (Attachment C)

3. A third sealed inner envelope containing:
- "Subcontractor Utilization Plan" (Attachment K, Schedule B, Part II) or;
- Approved Waiver of Target Subcontracting Percentage (Attachment K, Schedule B, Part III) or;
- "Subcontractor Utilization Plan" (Attachment K, Schedule B, Part II) and Approved Partial Waiver of Target Subcontracting Percentage (Attachment K, Schedule B, Part III).

4. All proposals must contain a fourth sealed inner envelope labeled "Doing Business Data Form" containing an original, completed Doing Business Data Form (see Attachment E).

4. A sealed outer envelope, enclosing the four sealed inner envelopes. The sealed outer envelope should have two labels containing:
- The proposer's name and address, the Title and PIN # of this RFP and the name and telephone number of the Proposer's Contact Person.
- The name, title and address of the Authorized Department Contact Person.

SECTION V - PROPOSAL EVALUATION AND CONTRACT AWARD PROCEDURES

5.1   Evaluation Procedures

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

The Department's evaluation committee will review and rate each technical proposal. The proposals will be ranked in order of highest to lowest technical score and the Department will establish a shortlist through establishing a cut-off score for technically viable proposals. The price proposals of the short-listed vendors will then be opened and reviewed by the evaluation committee.

5.2   Evaluation Criteria

Criteria	%
Demonstrated quantity and quality of successful relevant experience.	**50**
Demonstrated level of organizational capability.	**20**
Quality of proposed approach.	**30**
Total	**100**

5.3   Basis for Contract Award

- **Price per Technical Point**
  Based on the final technical scores of the proposals, after any oral presentations, discussions and/or technical Best and Final Offers, if applicable, have been held, the Agency will establish a shortlist through a natural break in scores and those proposals still under consideration for award will be ranked in order of lowest price per technical point, which shall be calculated by dividing the proposed price (or Best and Final Offer price, if applicable) by the final technical score.

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

SECTION VI - GENERAL INFORMATION TO PROPOSERS

A.   Complaints.   The New York City Comptroller is charged with the audit of contracts in New York City. Any proposer who believes that there has been unfairness, favoritism or impropriety in the proposal process should inform the Comptroller, Office of Contract Administration, 1 Centre Street, Room 1005, New York, NY 10007; contract@comptroller.nyc.gov, or at (212) 669-2323.   In addition, the New York City Department of Investigation should be informed of such complaints at its Investigations Division, 80 Maiden Lane, New York, NY 10038; the telephone number is (212) 825-5959.

B.   Applicable Laws.   This Request for Proposals and the resulting contract award(s), if any, unless otherwise stated, are subject to all applicable provisions of New York State Law, the New York City Administrative Code, New York City Charter and New York City Procurement Policy Board (PPB) Rules. A copy of the PPB Rules may be obtained by contacting the PPB at (212) 788-0010 or at: http://www.nyc.gov/html/mocs/ppb/html/home/home.shtml.

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

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

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

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

fiscal year. In the event of cancellation, the contractor will be reimbursed for those costs, if any, which are so provided for in the contract.

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

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

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

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

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

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

M. Charter Section 312(a) Certification

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

_____ The contract to be awarded through this Request for Proposals is a task order contract that does not simultaneously result in the award of a first task order; a displacement

determination will be made in conjunction with the issuance of each task order pursuant to such task order contract. Determinations for any subsequent task orders will be made in conjunction with such subsequent task orders.

_____   _____
            (Agency Chief Contracting Officer)   Date

<u>Message from the New York City Vendor Enrollment Center</u>
Get on mailing lists for New York City contract opportunities!

Message from New York City's Department of Small Business Services

The Department of Small Business Services (SBS) offers One-on-One Technical Assistance to businesses that are interested in bidding on City contracts for the following goods and services: construction, construction related, standardized and architectural and engineering. If you plan on bidding on this or any other City contract, contact SBS to schedule an appointment. The Department of Small Business Services will meet with you to review your particular proposal or submission, and provide feedback and guidance to help you submit the best proposal possible.

To schedule One-on-One Technical Assistance, email techassist@sbs.nyc.gov and an SBS representative will contact you.

Procurement and Sourcing Solutions Portal (PASSPort) Disclosure Filing (formerly known as Vendor Information Exchange System (VENDEX) Forms or Certificate of No Change)

All organizations intending to do business with the City of New York should complete an online disclosure process to be considered for a contract. This disclosure process was formerly completed using Vendor Information Exchange System (VENDEX) paper-based forms. In anticipation of awards, proposers to the Replacement of the Digital Tax Map RFP must create online accounts in the new Procurement and Sourcing Solutions Portal (PASSPort) and file all disclosure information. **Paper submissions, including certifications of no changes to existing VENDEX packages will not be accepted in lieu of complete online filings.**

For more information about PASSPort, please visit **nyc.gov/passport**

ATTACHMENT A

PROPOSAL COVER LETTER

RFP TITLE: _____

E-PIN: 836_____

Proposer:

Name: _____

Address: _____

_____

Tax Identification #: _____

**Proposer's Contact
Person:**

Name: _____

Title: _____

Telephone
#: _____

**Proposer's Authorized
Representative:**

Name: _____

Title: _____

Signature: _____

Date: _____

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

☐ **Yes**   ☐ **No**

ATTACHMENT B
ACKNOWLEDGEMENT OF ADDENDA

Proposer: _____
E-PIN: 83619P0003

COMPLETE PART I OR PART II, WHICHEVER IS APPLICABLE.

PART I: List below the dates of issuance for **each addendum received** in connection with this RFP:

ADDENDUM #1   DATED: _____, 2019

ADDENDUM #2   DATED: _____, 2019

ADDENDUM #3   DATED: _____, 2019

ADDENDUM #4   DATED: _____, 2019

ADDENDUM #5   DATED: _____, 2019

ADDENDUM #6   DATED: _____, 2019

ADDENDUM #7   DATED: _____, 2019

ADDENDUM #8   DATED: _____, 2019

PART II: Check, if applicable.

_____ NO ADDENDUM WAS RECEIVED IN CONNECTION WITH THIS RFP.

DATE _____/_____/_____

PROPOSER (NAME): _____

PROPOSER (SIGNATURE): _____

ATTACHMENT C

Format for Price Proposal

Please reference Excel file named *Appendix C – RFP_Pricing Worksheet_STARS and CACS Maintenance* for required pricing sheet.

Proposers are required to provide all pricing relevant to this type of project.   Price proposals must use the RFP provided format for submitting their pricing details.

ATTACHMENT D

AFFIRMATION

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

_____

Full name of Contractor: _____

Address: _____

City _____ State _____ Zip Code _____

CHECK ONE BOX AND INCLUDE APPROPRIATE NUMBER:

☐　A - Individual or Sole Proprietorship*
　　　SOCIAL SECURITY NUMBER

　　　— — — — — — — — —

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

　　　— — — — — — — — —

☐　C - Corporation
　　　EMPLOYER IDENTIFICATION NUMBER

　　　— — — — — — — — —

By _____
　　Signature

　　_____
　　Title

If a corporation, place seal here

Must be signed by an officer or duly authorized representative.

_____

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

ATTACHMENT E

Doing Business Data Form

NYC Mayor's Office of Contract Services

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 enitity. 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 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 _____

1/2018   *For information or assistance, please contact the Doing Business Accountability Project at DoingBusiness@mocs.nyc.gov or 212-788-8104.*

68   RFP: STARS & CACS and Support Services EPIN 83619P0003

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 _____

Please return this form to the City agency that supplied it to you, not to the Doing Business Accountability Project.   **Standard Form**

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% of 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 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, 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.

ATTACHMENT F
Notice to Vendors
New York City EFT/Direct Deposit Program

The City is required by law to pay its vendors electronically if they have contracts to provide goods and services valued over $25,000. Effective immediately all vendors doing business with the City of New York who are not enrolled in the EFT/Direct Deposit program must enroll **ONLINE** via the Payee Information Portal (PIP) at www.nyc.gov/PIP. Existing EFT enabled vendors with a PIP user ID and password can update their bank account information in PIP. New vendors doing business with the City of New York must create a new PIP account and vendor code, and then add a single bank account information for EFT/Direct Deposit. The Activation Quick Start Guide, EFT/Direct Deposit enrollment Guide and online EFT Enrollment eLearning tutorials are available at www.nyc.gov/PIP.

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

☐　　　I agree to accept EFT and have enrolled online via the Payee Information Portal (PIP).

☐　　　I agree to accept EFT and will enroll online via the Payee Information Portal (PIP).

☐　　　I already receive payments via EFT.

Name of Firm:　＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

Print Name:　＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

Signature:　＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

Title & Date:　＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿

Vendors should contact the New York City Department of Finance at EFT@Finance.nyc.gov if:

- Multiple bank accounts to be enrolled
- You want to delete the EFT bank account currently enrolled in PIP
- Your business is a non-US business entity (foreign vendor)

For assistance with the PIP System, please contact the PIP Help Desk at 212-857-1777 or PIP@fisa-opa.nyc,gov.

ATTACHMENT G

CITY OF NEW YORK – DEPARTMENT OF FINANCE

CONFIDENTIALITY AGREEMENT

Agreement to Adhere to the Secrecy and Confidentiality Provisions of the New York City Administrative Code, New York State Tax Law and the Internal Revenue Code.

City Tax Information
The Administrative Code of the City of New York ("Administrative Code") imposes secrecy restrictions on:

- All officers, employees and agents of the Department of Finance ("DOF").
- Any person engaged or retained by DOF on an independent contract basis.
- Any depository, its officers, and its employees, to which a return may be delivered.
- Any person who is permitted to inspect any report or return.
- Any person who in any manner may acquire knowledge of the contents of any report or return including:
- Contractors and workmen hired by DOF to work on its equipment, buildings or premises or to process returns or other papers.
- Visitors to DOF buildings or premises.

Except in accordance with proper judicial order or as otherwise provided by law, it is unlawful for anyone to divulge or make known in any manner the contents or any particulars set forth or disclosed in any report or return required under the Administrative Code.

Any unlawful disclosure of information by any of the above-mentioned persons is a criminal offense. City officers and employees making unlawful disclosures may be dismissed from office and barred from holding public office for a period of five years.

Social Security and Federal Employer Identification Numbers supplied by taxpayers pursuant to Administrative Code §11-102.1 and contained in information returns including but not limited to Owners Identification Forms are subject to tax secrecy and personal privacy laws and may not be disclosed.

Income and Expense Statements filed by property owners pursuant to Administrative Code §11-208.1 may not be disclosed to persons not authorized by §11-208.1(f) to receive such information.

Federal and State Tax Information
Section 6103 of the Internal Revenue Code contains secrecy provisions which apply to federal tax reports and returns. The New York State Tax Law contains secrecy provisions which apply to New York State tax returns and reports. Criminal and civil penalties are imposed on any person who makes an unauthorized disclosure of any information contained in a federal or state tax return or report.

Computer Files
Computer files and their contents are covered by the same standards and secrecy provisions of the Administrative Code, New York State Tax Law, and the Internal Revenue Code that apply to physical documents.

<u>Audit Selection</u>
Unauthorized disclosure of confidential audit selection methods developed by DOF is strictly prohibited.

The undersigned has read and understands all of the secrecy and confidentiality provisions provided in this document and in Exhibit A attached hereto.

I certify that I have read this document AND EXHIBIT A attached hereto and agree to adhere to the secrecy and confidentiality requirements contained in this document AND EXHIBIT A even after my relationship with DOF is terminated.

Signature_____ Date _____

Name _____
                (Please Print)

Employer Name: _____

EXHIBIT A

CONFIDENTIALITY

A.   Definitions

        (1)   City tax information shall mean any tax report or return or any other official filing with the Department.

        (2)   Confidential Information shall mean "Confidential administration information," "Confidential tax administration information," "Federal tax information," "City tax information and "State tax information".

        (3)   Confidential administration information shall mean information relating to the past, present or future research, development or business affairs of the Department and any proprietary products, materials, systems, procedures or methodologies.

        (4)   Confidential tax administration information shall mean any information in the possession of the Department not covered in the preceding paragraphs to the extent such information is known only to employees of the Department and is not of a type made available to others including but not limited to: audit selection tolerances, communications from taxpayers, information on how audits are done, tax compliance, enforcement and audit procedures, settlement criteria or guidelines, internal deliberations of the officers and employees of the Department, and systems documentation for the electronic data processing security operations of the Department including codes, logs and other details relating to the security of those operations.

(5)   State tax information shall mean any tax report or return or any other official filing with the New York State Department of Taxation and Finance (State) furnished to the Department by the State.

(6)   Federal tax information shall mean any tax return and/or return information furnished to the Department by the Internal Revenue Service.

B.   Adherence to Secrecy Provisions and Security Procedures

(1)   Contractor acknowledges that in the course of this Agreement it will have access to and/or be in possession of Confidential Information of the Department, City tax information, State tax information, Federal tax information, confidential administration information, and confidential tax administration information. Access to all such information shall be restricted to those personnel with a need to know, who are engaged in a permitted use and who have been advised of the terms of this Article. All work will be done under the supervision of the Contractor or the contractor's employees. Any confidential information, made available in any format, shall be used only for the purpose of carrying out the provisions of this Agreement.

(2)   Tax Secrecy

(a)   Notice of Secrecy Provisions of the Administrative Code of the City of New York (Administrative Code) and the State Tax Law. Contractor, its employees and all subcontractors and their employees shall be notified in writing of the secrecy provisions of the Administrative Code and the State Tax Law, including, but not limited to, Tax Law Sections 697(e) and 1825, which prohibit independent contractors from disclosing tax information in any manner, and understand that the existence and the contents of all tax reports and tax returns, or other information covered by such secrecy provisions may not be divulged or made known in any manner to any unauthorized person. Contractor hereby states that it is aware that violation of these secrecy provisions is punishable by a fine not exceeding $10,000 or imprisonment not exceeding one year, or both.

(b)   Notice of Secrecy Provisions of Internal Revenue Code (26 USC Section 6103). Contractor, its employees and all subcontractors and their employees shall be notified in writing of the secrecy provisions under the Internal Revenue Code. All employees shall also be notified in writing that such unauthorized divulgence of federal tax information by Contractor and its employees or subcontractors and their employees is punishable as a felony with a fine in an amount not exceeding $5,000 or imprisonment of not more than five years, or both together, plus the cost of prosecution. In addition, unauthorized disclosures may result in an award of civil damages in an amount not less than $1,000.00 with respect to each instance of unauthorized disclosure.

Paragraphs (a) and (b) of this subdivision are intended to give notice to Contractor and its personnel and shall not be deemed to affect or expand the meaning, application or scope of the secrecy provisions therein referred to.

(c)   When this project is over, and from time to time before its completion, as the Department may determine, the officers and employees of Contractor who view or otherwise have access to the Confidential Information defined herein shall turn over to the Department all written or computerized records of it in any form whatsoever, including computer tapes and/or disks. All spoilage and/or intermediate hard copy printouts that may result during the processing of confidential information will be given to the Department. When this is not possible, the Contractor will be responsible for the destruction of the spoilage and/or intermediate hard copy printouts, and must provide the Department with a statement containing the date of destruction, a description of material destroyed, and the method used.

(d)   Employees of Contractor may not re-release or re-disclose confidential administration information, federal tax information, City tax information, State tax information, and confidential tax administration information to other employees of Contractor or Subcontractor(s) not personally and directly engaged in rendering service on this project. Contractor, its employees or Subcontractor(s) and its employees will make no other disclosure except with the prior written approval of the Department.

e)   Contractor will require each of its employees assigned to perform maintenance services hereunder to sign a Secrecy Agreement in the form attached hereto as Appendix A, acknowledging his/her understanding of the secrecy provisions of the Administrative Code of New York City, the State Tax Law, and the Internal Revenue Code and the penalties for improper disclosure. The agreements are to be forwarded to the Department with photostatic copies maintained at the premises of Contractor/Subcontractor prior to commencement of this Agreement. Secrecy agreements are to be updated as employees are assigned to Contractor for a period of three years following the expiration of this Agreement.

(f)   Contractor shall be liable for the wrongful disclosure of any information attributable to it or its officers, employees, its subcontractors and its subcontractor's employees. Contractor shall fully cooperate with the Department in defense of any claims brought against the Department by reason of such wrongful disclosure.

(3)   Survival

This section shall survive termination of this Agreement for any reason.

C.   Security Procedures

In order to ensure that all confidential administration information, confidential tax administration information, federal, State or City tax information ("Confidential Information") received by Contractor from the Department is secured and that maximum control over the data is maintained, the following security procedures must be maintained at all times during which Contractor is in possession of such information.

(1)   When not in use all Confidential Information must be stored in a separate, restricted area enclosed by slab-to-slab walls within the Contractor processing center, with control and access limited to the minimum number of persons necessary to perform the tasks assigned. A list containing the names and titles of persons with keys to the storage area, must be provided to the Department.

(2)   Contractor agrees that only authorized personnel will be permitted to access confidential administration information, confidential tax administration information, federal, State and City tax information. A list of such personnel shall be provided to the Department and to the IRS. All Federal, State and City tax information must be accounted for upon receipt and properly stored before, during and after processing. All related or derivative output must be given the same level of protection that is required for the source material. An audit trail of accesses to the information must be maintained and, at minimum, record log-in attempts, password changes, and files creations, changes and/or deletions. Audit trails must be reviewed regularly by authorized supervisory or security personnel who are not regular program users.

(3)   While such Confidential Information is resident in computer memory, access to such Confidential Information must be limited to only authorized persons and used only for authorized applications.

(4)   Authorized access codes/passwords are required to be employed (and safeguarded) to ensure that access is limited to authorized persons. Access codes/passwords must, at a minimum, be constructed, protected and administered in accordance with federal standards. The current standard is Federal Information Processing

Standards Publication (FIPS PUB) 112, "Password Usage." The system may use any method which uniquely identifies users and requires proof of identify before accessing the system. Identification/authentication must be an auditable function. All computer systems processing, storing, or transmitting confidential information must meet or exceed "C2" computer access protection controls.

(5)   Whenever maintenance is to be performed on the computer system, all City and tax data files must be removed to the storage area. If that is not possible, an authorized employee must monitor the activities of the maintenance personnel in order to prevent the unauthorized disclosure of federal, State, or City tax information, confidential administration information or confidential tax administration information.

(6)   Contractor must maintain sign in/sign out registers at each entrance to the file and storage areas. Each person entering the restricted file area who is not assigned to the area should sign in ink in the register, his/her name, signature, assigned work area, date and time of entry, and purpose of entry. The person controlling the entrance point should verify the name and signature by checking a valid form of personal identification and enter the time of departure from the area.

(7)   Contractor shall not make or permit the making of copies of any written or computerized record of Confidential Information, including computer tapes and/or disks, for any purpose unless authorized by the Department of Finance, the State and the IRS.

(8) Upon completion of this project, Contractor agrees to return to the Department, the State and to the IRS all computer tapes, or at the Department's or at the IRS's option, destroy all such tapes. Within ten (10) days of completion of the work required hereunder, Contractor shall deliver to the Department and to the IRS a written statement certifying that all such tapes have been returned or destroyed, identifying each such returned or destroyed tape by tape reel number. Contractor must further certify that all confidential information processed during the performance of this Agreement will be completely purged from all data storage components of its computer facility, and that no output will be retained by Contractor at the time the work is completed. Contractor must also certify that any confidential information in any storage component will be safeguarded to prevent unauthorized disclosures if immediate purging of all data storage components is not possible.

(9) No work involving information furnished under this Agreement may be subcontracted without the specific prior written approval of the Department of Finance.

(10) In addition to any rights of termination the Department may have under the law or this Agreement, the Department shall terminate this Agreement if the Contractor fails to provide the safeguards described above.

The Department reserves the right to inspect Contractor's premises from time to time to verify Contractor's compliance with the foregoing security requirements. On the basis of such inspection(s), specific measures may be required in specific cases where Contractor is found to be noncompliant with contractual safeguards.

A.   Employee Awareness

The Contractor, all Contractor employees, subcontractors and all subcontractor employees must be notified in writing of the foregoing tax secrecy provisions and security procedures.

Said individuals must be notified in writing that there are civil and criminal penalties for unauthorized disclosures that apply even if an unauthorized disclosure is made after their employment with Contractor terminates.

The Contractor, all Contractor employees, subcontractors and all subcontractor employees must subscribe in writing to Section 74 of the Public Officers Law and to the Privacy Act of 1974, 5 U.S.C. 552a, which prohibits an officer or employee of a State agency from disclosing confidential information acquired during the course of carrying out official duties.

E. CONTRACT LANGUAGE FOR GENERAL SERVICES - IRS Publication 1075 (Rev 1-2014)

A.   PERFORMANCE
In performance of this contract, the Contractor agrees to comply with and assume responsibility for compliance by his or her employees with the following requirements:

(1) All work will be performed under the supervision of the contractor or the contractor's responsible employees.

(2) Any Federal tax returns or return information (hereafter referred to as returns or return information) made available shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone other than an officer or employee of the contractor is prohibited.

(3) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output and products will be given the same level of protection as required for the source material.

(4) No work involving returns and return information furnished under this contract will be subcontracted without prior written approval of the IRS.

(5) The contractor will maintain a list of employees authorized access. Such list will be provided to the agency and, upon request, to the IRS reviewing office.

(6) The agency will have the right to void the contract if the contractor fails to provide the safeguards described above.

II. CRIMINAL/CIVIL SANCTIONS
(1) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as $5,000 or imprisonment for as long as five years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized future disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than $1,000 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC Sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

(2) Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such

material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone without an official need to know constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as $1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee [United States for Federal employees] in an amount equal to the sum of the greater of $1,000.00 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRC Sections 7213A and 7431.

(3) Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552 a (i) (1), which is made applicable to contractors by 5 U.S.C. 552a (m) (1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established there under, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

(4) Granting a contractor access to FTI must be preceded by certifying that each individual understands the agency's security policy and procedures for safeguarding IRS information. Contractors must maintain their authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in the agency's files for review. As part of the certification and at least annually afterwards, contractors should be advised of the provisions of IRC Sections 7431, 7213, and 7213A (see IRS Publication 1075, Exhibit 6; *IRC Sec. 7431 Civil Damages for Unauthorized Disclosure of Returns and Return Information and* IRS Publication 1075, Exhibit 5; *IRC Sec. 7213 Unauthorized Disclosure of Information*). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See IRS Publication 1075, Section 10) For both the initial certification and the annual certification, the contractor should sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements.

III. INSPECTION
The IRS and the Agency shall have the right to send its officers and employees into the offices and plants of the contractor for inspection of the facilities and operations provided for the performance of any work under this contract. On the basis of such inspection, specific measures may be required in cases where the contractor is found to be noncompliant with contract safeguards.

F.   TITLE 26--INTERNAL REVENUE CODE, Subtitle F--Procedure and Administration

Sec. 7213. Unauthorized disclosure of information

(a) Returns and return information

(1) Federal employees and other persons:
It shall be unlawful for any officer or employee of the United States or any person described in section 6103(n) (or an officer or employee of any such person), or any former officer or employee, willfully to disclose to any

person, except as authorized in this title, any return or return information (as defined in section 6103(b)). Any violation of this paragraph shall be a felony punishable upon conviction by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution, and if such offense is committed by any officer or employee of the United States, he shall, in addition to any other punishment, be dismissed from office or discharged from employment upon conviction for such offense.

(2) State and other employees:
It shall be unlawful for any person (not described in paragraph (1)) willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by him or another person under subsection (d), (i)(3)(B)(i) or (7)(A)(ii), (l)(6), (7), (8), (9), (10), (12), (15), (16), (19), or (20) or (m)(2), (4), (5), (6), or (7) of section 6103. Any violation of this paragraph shall be a felony punishable
by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(3) Other persons:
It shall be unlawful for any person to whom any return or return information (as defined in section 6103(b)) is disclosed in a manner unauthorized by this title thereafter willfully to print or publish in any manner not provided by law any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(4) Solicitation:
It shall be unlawful for any person willfully to offer any item of material value in exchange for any return or return information (as defined in section 6103(b)) and to receive as a result of such solicitation any such return or return information. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

(5) Shareholders:
It shall be unlawful for any person to whom a return or return information (as defined in section 6103(b)) is disclosed pursuant to the provisions of section 6103(e)(1)(D)(iii) willfully to disclose such return or return information in any manner not provided by law. Any violation of this paragraph shall be a felony punishable by a fine in any amount not to exceed $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

Sec. 7213A. Unauthorized inspection of returns or return information

(a) Prohibitions

(1) Federal employees and other persons
    It shall be unlawful for--
        (A) any officer or employee of the United States, or
        (B) any person described in subsection (l)(18) or (n) of
        section 6103 or an officer or employee of any such person, willfully to inspect, except as authorized in this title, any return or return information.

(2) State and other employees

It shall be unlawful for any person (not described in paragraph (1)willfully to inspect, except as authorized in this title, any return or return information acquired by such person or another person under a provision of section 6103 referred to in section 7213(a)(2).

(b) Penalty

 (1) In general
Any violation of subsection (a) shall be punishable upon conviction by a fine in any amount not exceeding $1,000, or imprisonment of not more than 1 year, or both, together with the costs of prosecution.

 (2) Federal officers or employees
An officer or employee of the United States who is convicted of any violation of subsection (a) shall, in addition to any other punishment, be dismissed from office or discharged from employment.

(c) Definitions
For purposes of this section, the terms ``inspect'', ``return'', and ``return information'' have the respective meanings given such terms by section 6103(b).

IRC § 7431. Civil damages for unauthorized inspection or disclosure of returns and return information

(a) In general

(1) Inspection or disclosure by employee of United States
If any officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

(2) Inspection or disclosure by a person who is not an employee of United States
If any person who is not an officer or employee of the United States knowingly, or by reason of negligence, inspects or discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against such person in a district court of the United States.

(b) Exceptions
    No liability shall arise under this section with respect to any inspection or disclosure—
        (1) which results from a good faith, but erroneous, interpretation of section 6103, or
        (2) which is requested by the taxpayer.

(c) Damages
In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—
(1) the greater of—

        (A) $1,000 for each act of unauthorized inspection or disclosure of a return or return information with respect to which such defendant is found liable, or
        (B) the sum of—
                (i) the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure, plus

(ii) in the case of a willful inspection or disclosure or an inspection or disclosure which is the result of gross negligence, punitive damages, plus

(2) the costs of the action, plus

(3) in the case of a plaintiff which is described in section 7430 (c)(4)(A)(ii), reasonable attorneys fees, except that if the defendant is the United States, reasonable attorneys fees may be awarded only if the plaintiff is the prevailing party (as determined under section 7430 (c)(4)).

(d) Period for bringing action
   Notwithstanding any other provision of law, an action to enforce any liability created under this section may be brought, without regard to the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the unauthorized inspection or disclosure.

(e) Notification of unlawful inspection and disclosure
   If any person is criminally charged by indictment or information with inspection or disclosure of a taxpayer's return or return information in violation of—
      (1) paragraph (1) or (2) of section 7213 (a),
      (2) section 7213A (a), or
      (3) subparagraph (B) of section 1030 (a)(2) of title 18, United States Code,
   the Secretary shall notify such taxpayer as soon as practicable of such inspection or disclosure.

(f) Definitions
   For purposes of this section, the terms "inspect", "inspection", "return", and "return information" have the respective meanings given such terms by section 6103 (b).

(g) Extension to information obtained under section 3406
   For purposes of this section—

(1) any information obtained under section 3406 (including information with respect to any payee certification failure under subsection (d) thereof) shall be treated as return information, and
(2) any inspection or use of such information other than for purposes of meeting any requirement under section 3406 or (subject to the safeguards set forth in section 6103) for purposes permitted under section 6103 shall be treated as a violation of section 6103. For purposes of subsection (b), the reference to section 6103 shall be treated as including a reference to section 3406.

ATTACHMENT H

<u>NOTICE TO ALL PROSPECTIVE CONTRACTORS</u>

<u>PARTICIPATION BY MINORITY-OWNED AND WOMEN-OWNED BUSINESS ENTERPRISES IN CITY PROCUREMENT</u>

ARTICLE I.   M/WBE PROGRAM

Local Law No. 129 of 2005 added and Local Law 1 of 2013 amended Section 6-129 of the Administrative Code of the City of New York (hereinafter "Section 6-129"). Section 6-129 establishes the program for participation in City procurement ("M/WBE Program") by minority-owned business enterprises ("MBEs") and women-owned business enterprises ("WBEs"), certified in accordance with Section 1304 of the New York City Charter. As stated in Section 6-129, the intent of the program is to address the impact of discrimination on the City's procurement process, and to promote the public interest in avoiding fraud and favoritism in the procurement process, increasing competition for City business, and lowering contract costs. The contract provisions contained herein are pursuant to Section 6-129, and the rules of the Department of Small Business Services ("DSBS") promulgated thereunder.

If this Contract is subject to the M/WBE Program established by Section 6-129, the specific requirements of MBE and/or WBE participation for this Contract are set forth in Schedule B of the Contract (entitled the "M/WBE Utilization Plan"), and are detailed below.

The Contractor must comply with all applicable MBE and WBE requirements for this Contract.

All provisions of Section 6-129 are hereby incorporated in the Contract by reference and all terms used herein that are not defined herein shall have the meanings given such terms in Section 6-129.

Article I, Part A, below, sets forth provisions related to the participation goals for construction, standard and professional services contracts.

Article I, Part B, below, sets forth miscellaneous provisions related to the M/WBE Program.

<u>PART A</u>

<u>PARTICIPATION GOALS FOR CONSTRUCTION, STANDARD AND PROFESSIONAL SERVICES CONTRACTS OR TASK ORDERS</u>

1.   The **MBE and/or WBE Participation Goals** established for this Contract or Task Orders issued pursuant to this Contract, ("**Participation Goals**"), as applicable, are set forth on Schedule B, Part I to this Contract (see Page 1, line 1 Total Participation Goals) or will be set forth on Schedule B, Part I to Task Orders issued pursuant to this Contract, as applicable.

The **Participation Goals** represent a percentage of the total dollar value of the Contract or Task Order, as applicable, that may be achieved by awarding subcontracts to firms certified with New York City Department of Small Business Services as MBEs and/or WBEs, and/or by crediting the participation of prime contractors and/or qualified joint ventures as provided in Section 3 below, unless the goals have been waived or modified by Agency in accordance with Section 6-129 and Part A, Sections 10 and 11 below, respectively.

2.   If **Participation Goals** have been established for this Contract or Task Orders issued pursuant to this Contract, Contractor agrees or shall agree as a material term of the Contract that Contractor shall be subject to the **Participation Goals**, unless the goals are waived or modified by Agency in accordance with Section 6-129 and Part A, Sections 10 and 11 below, respectively.

3.   If **Participation Goals** have been established for this Contract or Task Order issued pursuant to this Contract, a Contractor that is an MBE and/or WBE shall be permitted to count its own participation toward fulfillment of the relevant **Participation Goal**, provided that in accordance with Section 6-129 the value of Contractor's participation shall be determined by subtracting from the total value of the Contract or Task Order, as applicable, any amounts that the Contractor pays to direct subcontractors (as defined in Section 6-129(c)(13)), and provided further that a Contractor 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 Contractor that is a qualified joint venture (as defined in Section 6-129(c)(30)) shall be permitted to count a percentage of its own participation toward fulfillment of the relevant **Participation Goal**. In accordance with Section 6-129, the value of Contractor's participation shall be determined by subtracting from the total value of the Contract or Task Order, as applicable, any amounts that Contractor pays to direct subcontractors, 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.

4.   A.   If **Participation Goals** have been established for this Contract, a prospective contractor shall be required to submit with its bid or proposal, as applicable, a completed Schedule B, M/WBE Utilization Plan, Part II (see Pages 2-4) indicating: (a) whether the contractor is an MBE or WBE, or qualified joint venture; (b) the percentage of work it intends to award to direct subcontractors; and (c) in cases where the contractor intends to award direct subcontracts, a description of the type and dollar value of work designated for participation by MBEs and/or WBEs, and the time frames in which such work is scheduled to begin and end. In the event that this M/WBE Utilization Plan indicates that the bidder or proposer, as applicable, does not intend to meet the **Participation Goals**, the bid or proposal, as applicable, shall be deemed non-responsive, unless Agency has granted the bidder or proposer, as applicable, a pre-award waiver of the **Participation Goals** in accordance with Section 6-129 and Part A, Section 10 below.

B. (i) If this Contract is for a master services agreement or other requirements type contract that will result in the issuance of Task Orders that will be individually registered ("Master Services Agreement") and is subject to M/WBE **Participation Goals**, a prospective contractor shall be required to submit with its bid or proposal, as applicable, a completed Schedule B, M/WBE Participation Requirements for Master Services Agreements That Will Require Individually Registered Task Orders, Part II (page 2) indicating the prospective contractor's certification and required affirmations to make all reasonable good faith efforts to meet participation goals established on each individual Task Order issued pursuant to this Contract, or if a partial waiver is obtained or such goals are modified by the Agency, to meet the modified **Participation Goals** by soliciting and obtaining the participation of certified MBE and/or WBE firms. In the event that the Schedule B indicates that the bidder or proposer, as applicable, does not intend to meet the **Participation Goals** that may be established on Task Orders issued pursuant to this Contract, the bid or proposal, as applicable, shall be deemed non-responsive.

(ii) **Participation Goals** on a Master Services Agreement will be established for individual Task Orders issued after the Master Services Agreement is awarded. If **Participation Goals** have been established on a Task Order, a contractor shall be required to submit a Schedule B – M/WBE Utilization Plan For Independently Registered Task Orders That Are Issued Pursuant to Master Services Agreements, Part II (see Pages 2-4)

indicating: (a) whether the contractor is an MBE or WBE, or qualified joint venture; (b) the percentage of work it intends to award to direct subcontractors; and (c) in cases where the contractor intends to award direct subcontracts, a description of the type and dollar value of work designated for participation by MBEs and/or WBEs, and the time frames in which such work is scheduled to begin and end. The contractor must engage in good faith efforts to meet the **Participation Goals** as established for the Task Order unless Agency has granted the contractor a pre-award waiver of the **Participation Goals** in accordance with Section 6-129 and Part A, Section 10 below.

C. THE BIDDER/PROPOSER MUST COMPLETE THE SCHEDULE B INCLUDED HEREIN (SCHEDULE B, PART II). A SCHEDULE B SUBMITTED BY THE BIDDER/PROPOSER WHICH DOES NOT INCLUDE THE VENDOR CERTIFICATION AND REQUIRED AFFIRMATIONS (SEE SECTION V OF PART II) WILL BE DEEMED TO BE NON-RESPONSIVE, UNLESS A FULL WAIVER OF THE PARTICIPATION GOALS IS GRANTED (SCHEDULE B, PART III). IN THE EVENT THAT THE CITY DETERMINES THAT THE BIDDER/PROPOSER HAS SUBMITTED A SCHEDULE B WHERE THE VENDOR CERTIFICATION AND REQUIRED AFFIRMATIONS ARE COMPLETED BUT OTHER ASPECTS OF THE SCHEDULE B ARE NOT COMPLETE, OR CONTAIN A COPY OR COMPUTATION ERROR THAT IS AT ODDS WITH THE VENDOR CERTIFICATION AND AFFIRMATIONS, THE BIDDER/PROPOSER WILL BE NOTIFIED BY THE AGENCY AND WILL BE GIVEN FOUR (4) CALENDAR DAYS FROM RECEIPT OF NOTIFICATION TO CURE THE SPECIFIED DEFICIENCIES AND RETURN A COMPLETED SCHEDULE B TO THE AGENCY. FAILURE TO DO SO WILL RESULT IN A DETERMINATION THAT THE BID/PROPOSAL IS NON-RESPONSIVE. RECEIPT OF NOTIFICATION IS DEFINED AS THE DATE NOTICE IS E-MAILED OR FAXED (IF THE BIDDER/PROPOSER HAS PROVIDED AN E-MAIL ADDRESS OR FAX NUMBER), OR NO LATER THAN FIVE (5) CALENDAR DAYS FROM THE DATE OF MAILING OR UPON DELIVERY, IF DELIVERED.

5. Where an **M/WBE** Utilization Plan has been submitted, the Contractor shall, within 30 days of issuance by Agency of a notice to proceed, submit a list of proposed persons or entities to which it intends to award subcontracts within the subsequent 12 months. In the case of multi-year contracts, such list shall also be submitted every year thereafter. The Agency may also require the Contractor to report periodically about the contracts awarded by its direct subcontractors to indirect subcontractors (as defined in Section 6-129(c)(22)). **PLEASE NOTE: If this Contract is a public works project subject to GML §101(5) (i.e., a contract valued at or below $3M for projects in New York City) or if the Contract is subject to a project labor agreement in accordance with Labor Law §222, and the bidder is required to identify at the time of bid submission its intended subcontractors for the Wicks trades (plumbing and gas fitting; steam heating, hot water heating, ventilating and air conditioning (HVAC); and electric wiring), the Contractor must identify all those to which it intends to award construction subcontracts for any portion of the Wicks trade work at the time of bid submission, regardless of what point in the life of the contract such subcontracts will occur. In identifying intended subcontractors in the bid submission, bidders may satisfy any Participation Goals established for this Contract by proposing one or more subcontractors that are MBEs and/or WBEs for any portion of the Wicks trade work.** In the event that the Contractor's selection of a subcontractor is disapproved, the Contractor shall have a reasonable time to propose alternate subcontractors.

6. MBE and WBE firms must be certified by DSBS in order for the Contractor to credit such firms' participation toward the attainment of the **Participation Goals**. Such certification must occur prior to the firms' commencement of work. A list of MBE and WBE firms may be obtained from the DSBS website at www.nyc.gov/buycertified, by emailing DSBS at buyer@sbs.nyc.gov, by calling (212) 513-6356, or by visiting or writing DSBS at 110 William St., New York, New York, 10038, 7th floor. Eligible firms that have not yet been certified may contact DSBS in order to seek certification by visiting www.nyc.gov/getcertified, emailing MWBE@sbs.nyc.gov, or calling the DSBS 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. No credit shall be given for participation by a graduate MBE or graduate WBE, as defined in Section 6-129(c)(20).

7.   Where an **M/WBE** Utilization Plan has been submitted, the Contractor shall, with each voucher for payment, and/or periodically as Agency may require, submit statements, certified under penalty of perjury, which shall include, but not be limited to,: the total amount the Contractor paid to its direct subcontractors, and, where applicable pursuant to Section 6-129(j), the total amount direct subcontractors paid to indirect subcontractors; the names, addresses and contact numbers of each MBE or WBE hired as a subcontractor by the Contractor, and, where applicable, hired by any of the Contractor's direct subcontractors; and the dates and amounts paid to each MBE or WBE. The Contractor shall also submit, along with its voucher for final payment: the total amount it paid to subcontractors, and, where applicable pursuant to Section 6-129(j), the total amount its direct subcontractors paid directly to their indirect subcontractors; and a final list, certified under penalty of perjury, which shall include the name, address and contact information of each subcontractor that is an MBE or WBE, the work performed by, and the dates and amounts paid to each.

8.   If payments made to, or work performed by, MBEs or WBEs are less than the amount specified in the Contractor's **M/WBE** Utilization Plan, Agency shall take appropriate action, in accordance with Section 6-129 and Article II below, unless the Contractor has obtained a modification of its **M/WBE** Utilization Plan in accordance with Section 6-129 and Part A, Section 11 below.

9.   Where an **M/WBE** Utilization Plan has been submitted, and the Contractor requests a change order the value of which exceeds the greater of 10 percent of the Contract or Task Order, as applicable, or $500,000, Agency shall review the scope of work for the Contract or Task Order, as applicable, and the scale and types of work involved in the change order, and determine whether the **Participation Goals** should be modified.

10.   Pre-award waiver of **the Participation Goals**. (a) A bidder or proposer, or contractor with respect to a Task Order, may seek a pre-award full or partial waiver of the Participation Goals in accordance with Section 6-129, which requests that Agency change one or more **Participation Goals** on the grounds that the **Participation Goals** are unreasonable in light of the availability of certified firms to perform the 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 bidder, proposer, or contractor, as applicable, must complete Part III (Page 5) of Schedule B and submit such request no later than seven (7) calendar days prior to the date and time the bids, proposals, or Task Orders are due, in writing to the Agency by email at _____ or via facsimile at (   ) _____. Bidders, proposers, or contractors, as applicable, who have submitted requests will receive an Agency response by no later than two (2) calendar days prior to the due date for bids, proposals, or Task Orders; provided, however, that if that date would fall on a weekend or holiday, an Agency response will be provided by close-of-business on the business day before such weekend or holiday date.

        (c) If the Agency determines that the **Participation Goals** are unreasonable in light of the availability of certified firms to perform the services required, it shall revise the solicitation and extend the deadline for bids and proposals, or revise the Task Order, as applicable.

        (d) Agency may grant a full or partial waiver of the **Participation Goals** to a bidder, proposer or contractor, as applicable, who demonstrates—before submission of the bid, proposal or Task Order, as applicable—that it has legitimate business reasons for proposing the level of subcontracting in its **M/WBE** Utilization Plan. In making its determination, Agency shall consider factors that shall include, but not be limited to, whether the bidder, proposer or contractor, as applicable, has the capacity and the bona fide intention to perform the Contract without any subcontracting, or to perform the Contract without awarding the amount of subcontracts represented by the **Participation Goals**. In making such determination, Agency may consider whether the **M/WBE** Utilization Plan is consistent with past subcontracting practices of the

bidder, proposer or contractor, as applicable, whether the bidder, proposer or contractor, as applicable, has made efforts to form a joint venture with a certified firm, and whether the bidder, proposer, or contractor, as applicable, has made good faith efforts to identify other portions of the Contract that it intends to subcontract.

11.   Modification of **M/WBE** Utilization Plan. (a) A Contractor may request a modification of its **M/WBE** Utilization Plan after award of this Contract. **PLEASE NOTE: If this Contract is a public works project subject to GML §101(5) (i.e., a contract valued at or below $3M for projects in New York City) or if the Contract is subject to a project labor agreement in accordance with Labor Law §222, and the bidder is required to identify at the time of bid submission its intended subcontractors for the Wicks trades (plumbing and gas fitting; steam heating, hot water heating, ventilating and air conditioning (HVAC); and electric wiring), the Contractor may request a Modification of its M/WBE Utilization Plan as part of its bid submission.** The Agency may grant a request for Modification of a Contractor's **M/WBE** Utilization Plan if it determines that the Contractor has established, with appropriate documentary and other evidence, that it made reasonable, good faith efforts to meet the **Participation Goals**. In making such determination, Agency shall consider evidence of the following efforts, as applicable, along with any other relevant factors:

(i)   The Contractor advertised opportunities to participate in the Contract, 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 Contractor provided notice of specific opportunities to participate in the Contract, in a timely manner, to minority and women's business organizations;

(iii)   The Contractor sent written notices, by certified mail or facsimile, in a timely manner, to advise MBEs or WBEs that their interest in the Contract was solicited;

(iv)   The Contractor made efforts to identify portions of the work that could be substituted for portions originally designated for participation by MBEs and/or WBEs in the **M/WBE** Utilization Plan, and for which the Contractor claims an inability to retain MBEs or WBEs;

(v)   The Contractor held meetings with MBEs and/or WBEs prior to the date their bids or proposals were due, for the purpose of explaining in detail the scope and requirements of the work for which their bids or proposals were solicited;

(vi)   The Contractor 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 Contractor to Agency's M/WBE liaison officer and to DSBS;

(viii)   Description of how recommendations made by DSBS and Agency 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.

Agency's M/WBE officer shall provide written notice to the Contractor of the determination.

(b)   The Agency may modify the **Participation Goals** when the scope of the work has been changed by the Agency in a manner that affects the scale and types of work that the Contractor indicated in its **M/WBE Utilization Plan** would be awarded to subcontractors.

12.   If this Contract is for an indefinite quantity of construction, standard or professional services or is a requirements type contract and the Contractor 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**, the Contractor will not be deemed in violation of the M/WBE Program requirements for this Contract with regard to any work which was intended to be subcontracted to an MBE and/or WBE to the extent that the Agency has determined that such work is not needed.

13.   If **Participation Goals** have been established for this Contract or a Task Order issued pursuant to this Contract, at least once annually during the term of the Contract or Task Order, as applicable, Agency shall review the Contractor's progress toward attainment of its **M/WBE** Utilization Plan, including but not limited to, by reviewing the percentage of work the Contractor has actually awarded to MBE and/or WBE subcontractors and the payments the Contractor made to such subcontractors.

14.   If **Participation Goals** have been established for this Contract or a Task Order issued pursuant to this Contract, Agency shall evaluate and assess the Contractor's performance in meeting those goals, and such evaluation and assessment shall become part of the Contractor's overall contract performance evaluation.

PART B

MISCELLANEOUS

1.   The Contractor shall take notice that, if this solicitation requires the establishment of a **M/WBE** Utilization Plan, the resulting contract may be audited by DSBS to determine compliance with Section 6-129. See §6-129(e)(10). Furthermore, such resulting contract may also be examined by the City's Comptroller to assess compliance with the **M/WBE** Utilization Plan.

2.   Pursuant to DSBS rules, construction contracts that include a requirement for a **M/WBE** Utilization Plan shall not be subject to the law governing Locally Based Enterprises set forth in Section 6-108.1 of the Administrative Code of the City of New York.

3.   DSBS is available to assist contractors and potential contractors in determining the availability of MBEs and/or WBEs to participate as subcontractors, and in identifying opportunities that are appropriate for participation by MBEs and/or WBEs in contracts.

4.   Prospective contractors are encouraged to enter into qualified joint venture agreements with MBEs and/or WBEs as defined by Section 6-129(c)(30).

5.   By submitting a bid or proposal the Contractor hereby acknowledges its understanding of the M/WBE Program requirements set forth herein and the pertinent provisions of Section 6-129, and any rules promulgated thereunder, and if awarded this Contract, the Contractor hereby agrees to comply with the M/WBE Program requirements of this Contract and pertinent provisions of Section 6-129, and any rules promulgated thereunder, all of which shall be deemed to be material terms of this Contract. The Contractor 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 Agency determines that a bidder or proposer, as applicable, has, in relation to this procurement, violated Section 6-129 or the DSBS rules promulgated pursuant to Section 6-129, Agency may disqualify such bidder or proposer, as applicable, from competing for this Contract and the Agency may revoke such bidder's or proposer's prequalification status, if applicable.

2.   Whenever Agency believes that the Contractor or a subcontractor is not in compliance with Section 6-129 or the DSBS rules promulgated pursuant to Section 6-129, or any provision of this Contract that implements Section 6-129, including, but not limited to any **M/WBE** Utilization Plan, Agency shall send a written notice to the Contractor describing the alleged noncompliance and offering the Contractor an opportunity to be heard. Agency shall then conduct an investigation to determine whether such Contractor or subcontractor is in compliance.

3.   In the event that the Contractor has been found to have violated Section 6-129, the DSBS rules promulgated pursuant to Section 6-129, or any provision of this Contract that implements Section 6-129, including, but not limited to, any **M/WBE** Utilization Plan, Agency may determine that one of the following actions should be taken:

> (a) entering into an agreement with the Contractor allowing the Contractor to cure the violation;
>
> (b) revoking the Contractor's pre-qualification to bid or make proposals for future contracts;
>
> (c) making a finding that the Contractor is in default of the Contract;
>
> (d) terminating the Contract;
>
> (e) declaring the Contractor to be in breach of Contract;
>
> (f) withholding payment or reimbursement;
>
> (g) determining not to renew the Contract;
>
> (h) assessing actual and consequential damages;
>
> (i) assessing liquidated damages or reducing fees, provided that liquidated damages may be based on amounts representing costs of delays in carrying out the purposes of the M/WBE Program, or in meeting the purposes of the Contract, the costs of meeting utilization goals through additional procurements, the administrative costs of investigation and enforcement, or other factors set forth in the Contract;
>
> (j) exercising rights under the Contract to procure goods, services or construction from another contractor and charge the cost of such contract to the Contractor that has been found to be in noncompliance; or
>
> (k) taking any other appropriate remedy.

4.   If an **M/WBE** Utilization Plan has been submitted, and pursuant to this Article II, Section 3, the Contractor has been found to have failed to fulfill its **Participation Goals** contained in its **M/WBE** Utilization

Plan or the **Participation Goals** as modified by Agency pursuant to Article I, Part A, Section 11, Agency may assess liquidated damages in the amount of ten percent (10%) of the difference between the dollar amount of work required to be awarded to MBE and/or WBE firms to meet the **Participation Goals** and the dollar amount the Contractor actually awarded and paid, and/or credited, to MBE and/or WBE firms. In view of the difficulty of accurately ascertaining the loss which the City will suffer by reason of Contractor's failure to meet the **Participation Goals**, the foregoing amount is hereby fixed and agreed as the liquidated damages that the City will suffer by reason of such failure, and not as a penalty. Agency may deduct and retain out of any monies which may become due under this Contract the amount of any such liquidated damages; and in case the amount which may become due under this Contract shall be less than the amount of liquidated damages suffered by the City, the Contractor shall be liable to pay the difference.

5. Whenever Agency has reason to believe that an MBE and/or WBE is not qualified for certification, or is participating in a contract in a manner that does not serve a commercially useful function (as defined in Section 6-129(c)(8)), or has violated any provision of Section 6-129, Agency shall notify the Commissioner of DSBS who shall determine whether the certification of such business enterprise should be revoked.

6. Statements made in any instrument submitted to Agency pursuant to Section 6-129 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 submitted pursuant to Section 6-129 shall, in addition, be grounds for revocation of its certification.

7. The Contractor's record in implementing its **M/WBE** Utilization Plan shall be a factor in the evaluation of its performance. Whenever Agency determines that a Contractor's compliance with an **M/WBE** Utilization Plan has been unsatisfactory, Agency shall, after consultation with the City Chief Procurement Officer, file an advice of caution form for inclusion in VENDEX as caution data.

ATTACHMENT I

IRAN DIVESTMENT ACT COMPLIANCE RIDER FOR
<u>NEW YORK CITY CONTRACTORS</u>

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

(a)   the person provides goods or services of twenty million dollars or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or

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

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

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

such statement cannot be made. The City of New York may award a bid to a bidder who cannot make the certification on a case by case basis if:

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

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

BIDDER'S CERTIFICATION OF COMPLIANCE WITH
<u>IRAN DIVESTMENT ACT</u>

Pursuant to General Municipal Law §103-g, which generally prohibits the City from entering into contracts with persons engaged in investment activities in the energy sector of Iran, the bidder/proposer submits the following certification:

[*Please Check One*]

BIDDER'S CERTIFICATION

☐   By submission of this bid or proposal, each bidder/proposer and each person signing on behalf of any bidder/proposer certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief, that each bidder/proposer is not on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law.

☐   I am unable to certify that my name and the name of the bidder/proposer does not appear on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law. I have attached a signed statement setting forth in detail why I cannot so certify.

Dated: _____, New York
_____ , 20 __

_____
SIGNATURE

_____
PRINTED NAME

_____
TITLE

Sworn to before me this
_____ day of____, 20___

_____
Notary Public

Dated:

ATTACHMENT J

NOTICE TO PROPOSERS

As of March 2013 the City has implemented a new web based subcontractor reporting system through the City's Payee Information Portal (PIP), available at www.nyc.gov/pip. In order to use the new system, a PIP account will be required. Detailed instructions on creating a PIP account and using the new system are also available at that site. Additional assistance with PIP may be received by emailing the Financial Information Services Agency Help Desk at pip@fisa.nyc.gov.

In order to obtain subcontractor approval under section 3.02 of Appendix A or Article 17 of the Standard Construction Contract and PPB Rule § 4-13 Contractor is required to list the subcontractor in the system. For each subcontractor listed, Contractor is required to provide the following information: maximum contract value, description of subcontractor work, start and end date of the subcontract and identification of the subcontractor's industry. Thereafter, Contractor will be required to report in the system the payments made to each subcontractor within 30 days of making the payment. If any of the required information changes throughout the term of the contract, Contractor will be required to revise the information in the system.

Failure of the Contractor to list a subcontractor and/or to report subcontractor payments in a timely fashion may result in the Agency declaring the Contractor in default of the Contract and will subject Contractor to liquidated damages in the amount of $100 per day for each day that the Contractor fails to identify a subcontractor along with the required information about the subcontractor and/or fails to report payments to a subcontractor, beyond the time frames set forth herein or in the notice from the City. For construction contracts, the provisions of Article 15 of the Standard Construction Contract shall govern the issue of liquidated damages.

Contractor hereby agrees to these provisions.

ATTACHMENT K

SCHEDULE B – M/WBE Utilization Plan
Part I: M/WBE Participation Goals

Part I to be completed by contracting agency

Contract Overview

APT E- Pin #	83618P0003	**FMS Project ID#:**	
Project Title/ Agency PIN #	STARS and CACS Application Maintenance and Support Services		
Bid/Proposal Response Date	May 10, 2019		
Contracting Agency	New York City Department of Finance		
Agency Address	1 Centre Street	**City** New York	**State** NY **Zip Code** 10007
Contact Person	Eugenio Alcantara	**Title** M/WBE Program Manager	
Telephone #	212-602-7195	**Email** AlcantaraE@finance.nyc.gov	

Project Description *(attach additional pages if necessary)*

STARS and CACS Application Maintenance and Support Services

M/WBE Participation Goals for Services
Enter the percentage amount for each group or for an unspecified goal. Please note that there are no goals for Asian Americans in Professional Services.

Prime Contract Industry:

Group	Percentage	
Unspecified	**30%**	
or		
Black American	**%**	
Hispanic American	**%**	
Asian American	**%**	
Women	%	
Total Participation Goals	**30%**	Line 1

SCHEDULE B - Part II: M/WBE Participation Plan

Part II to be completed by the bidder/proposer.
Please note: For Non-M/WBE Prime Contractors who will NOT subcontract any services and will self-perform the entire contract, you must obtain a FULL waiver by completing the Waiver Application on pages 5 and 6 and timely submitting it to the contracting agency pursuant to the Notice to Prospective Contractors. Once a FULL WAIVER is granted, it must be included with your bid or proposal and you do not have to complete or submit this form with your bid or proposal.

Section I: Prime Contractor Contact Information	
Tax ID # _____	**FMS Vendor ID #** _____
Business Name _____	**Contact Person** _____
Address _____	
Telephone # _____	**Email** _____

Section II: M/WBE Utilization Goal Calculation: Check the applicable box and complete subsection.

PRIME CONTRACTOR ADOPTING AGENCY M/WBE PARTICIPATION GOALS

☐ **For Prime Contractors (including Qualified Joint Ventures and M/WBE firms) adopting Agency M/WBE Participation Goals.** Calculate the total dollar value of your total bid that you agree will be awarded to M/WBE subcontractors for services and/or credited to an M/WBE prime contractor or Qualified Joint Venture. Please review the Notice to Prospective Contractors for more information on how to obtain credit for M/WBE participation.	**Total Bid/Proposal Value**		**Agency Total Participation Goals (Line 1, Page 1)**		**Calculated M/WBE Participation Amount**
	$	**X**		**=**	**$ Line 2**

PRIME CONTRACTOR OBTAINED PARTIAL WAIVER APPROVAL: ADOPTING MODIFIED M/WBE PARTICIPATION GOALS

☐ **For Prime Contractors (including Qualified Joint Ventures and M/WBE firms) adopting Modified M/WBE Participation Goals.** Calculate the total dollar value of your total bid that you agree will be awarded to M/WBE subcontractors for services and/or credited to an M/WBE prime contractor or Qualified Joint Venture. Please review the Notice to Prospective Contractors for more information on how to obtain credit for M/WBE participation.	**Total Bid/Proposal Value**		**Adjusted Participation Goal (From Partial Waiver)**		**Calculated M/WBE Participation Amount**
	$	**X**		**=**	**$ Line 3**

Section III: M/WBE Utilization Plan: How Proposer/Bidder Will Fulfill M/WBE Participation Goals. Please review the Notice to Prospective Contractors for more information on how to obtain credit for M/WBE participation. Check applicable box. The Proposer or Bidder will fulfill the M/WBE Participation Goals:

☐   As an M/WBE Prime Contractor that will self-perform and/or subcontract to other M/WBE firms a portion of the contract the value of which is at least the amount located on Lines 2 or 3 above, as applicable. The value of any work subcontracted to non-M/WBE firms will not be credited towards fulfillment of M/WBE Participation Goals. Please check all that apply to Prime Contractor:

☐ MBE	☐ WBE

☐ As a Qualified Joint Venture with an M/WBE partner, in which the value of the M/WBE partner's participation and/or the value of any work subcontracted to other M/WBE firms is at least the amount located on Lines 2 or 3 above, as applicable. The value of any work subcontracted to non M/WBE firms will not be credited towards fulfillment of M/WBE Participation Goals.

☐ As a non M/WBE Prime Contractor that will enter into subcontracts with M/WBE firms the value of which is at least the amount located on Lines 2 or 3 above, as applicable.

Section IV: General Contract Information

What is the expected percentage of the total contract dollar value that you expect to award in subcontracts for services, regardless of M/WBE status? % _____

	Enter brief description of the type(s) and dollar value of subcontracts for all/any services you plan on subcontracting if awarded this contract. For each item, indicate whether the work is designated for participation by MBEs and/or WBEs and the time frame in which such work is scheduled to begin and end. Use additional sheets if necessary.
✓ Scopes of Subcontract Work	1._____ 2._____ 3._____ 4._____ 5._____ 6._____ 7._____ 8._____ 9. _____ 10._____ 11._____ 12._____ 13._____ 14._____ 15._____ 16._____ 17._____

Section V: Vendor Certification and Required Affirmations

I hereby:
1) acknowledge my understanding of the M/WBE participation requirements as set forth herein and the pertinent provisions of Section 6-129 of the Administrative Code of the City of New York ("Section 6-129"), and the rules promulgated thereunder;
2) affirm that the information supplied in support of this M/WBE Utilization Plan is true and correct;
3) agree, if awarded this Contract, to comply with the M/WBE participation requirements of this Contract, the pertinent provisions of Section 6-129, and the rules promulgated thereunder, all of which shall be deemed to be material terms of this Contract;
4) agree and affirm that it is a material term of this Contract that the Vendor will award the total dollar value of the M/WBE Participation Goals to certified MBEs and/or WBEs, unless a full waiver is obtained or such goals

Signature _____   **Date** _____

Print Name _____   **Title** _____

SCHEDULE B – PART III – REQUEST FOR WAIVER OF M/WBE PARTICIPATION REQUIREMENT

Tax ID # _____ **FMS Vendor ID #** _____

Business Name _____

Contact Name _____ **Telephone #** _____ **Email** _____

Type of Procurement ☐ Competitive Sealed Bids ☐ Other **Bid/Response Due Date** _____

APT E-PIN # (for this procurement): _____ **Contracting Agency:** _____

M/WBE Participation Goals as described in bid/solicitation documents

_____ **%** **Agency M/WBE Participation Goal**

Proposed M/WBE Participation Goal *as anticipated by vendor seeking waiver*

_____ **%** of the total contract value anticipated <u>in good faith</u> by the bidder/proposer to be subcontracted for services and/or credited to an M/WBE Prime Contractor or Qualified Joint Venture.

Basis for Waiver Request: *Check appropriate box & explain in detail below (attach additional pages if needed)*

☐ **Vendor does not subcontract services, and has the capacity and good faith intention to perform all such work itself with its own employees.**

☐ **Vendor subcontracts *some* of this type of work but at a *lower* % than bid/solicitation describes, and has the capacity and good faith intention to do so on this contract. (Attach subcontracting plan outlining services that the vendor will self-perform and subcontract to other vendors or consultants.)**

☐ **Vendor has other legitimate business reasons for proposing the M/WBE Participation Goal above. Explain under separate cover.**

References

List 3 most recent contracts performed for NYC agencies (if any). Include information for each subcontract awarded in performance of such contracts. Add more pages if necessary.

CONTRACT NO. _____ **AGENCY** _____ **DATE COMPLETED** _____

Total Contract Amount *$* _____ **Total Amount Subcontracted** *$* _____

Item of Work Subcontracted and Value of subcontract _____ Item of Work Subcontracted and Value of subcontract _____ Item of Work Subcontracted and Value of subcontract _____

CONTRACT NO. _____ **AGENCY** _____ **DATE COMPLETED** _____

Total Contract Amount *$* _____ **Total Amount Subcontracted** *$* _____

Item of Work Subcontracted and Value of subcontract _____ Item of Work Subcontracted and Value of subcontract _____ Item of Work Subcontracted and Value of subcontract _____

AGENCY **DATE COMPLETED**

CONTRACT NO.

| Total Contract Amount | $ | Total Amount Subcontracted | $ | | |

| Item of Work Subcontracted and Value of subcontract | | Item of Work Subcontracted and Value of subcontract | | Item of Work Subcontracted and Value of subcontract | |

List 3 most recent contracts performed for other entities. Include information for each subcontract awarded in performance of such contracts. Add more pages if necessary.

(Complete ONLY if vendor has performed fewer than 3 New York City contracts.)

TYPE OF Contract **ENTITY** **DATE COMPLETED**

Manager at entity that hired vendor (Name/Phone No./Email)

| Total Contract Amount | $ | Total Amount Subcontracted | $ | | |

Type of Work Subcontracted

TYPE OF Contract **AGENCY/ENTITY** **DATE COMPLETED**

Manager at agency/entity that hired vendor (Name/Phone No./Email)

| Total Contract Amount | $ | Total Amount Subcontracted | $ | | |

| Item of Work Subcontracted and Value of subcontract | | Item of Work Subcontracted and Value of subcontract | | Item of Work Subcontracted and Value of subcontract | |

TYPE OF Contract **AGENCY/ENTITY** **DATE COMPLETED**

Manager at entity that hired vendor (Name/Phone No./Email)

| Total Contract Amount | $ | Total Amount Subcontracted | $ | | |

| Item of Work Subcontracted and Value of subcontract | | Item of Work Subcontracted and Value of subcontract | | Item of Work Subcontracted and Value of subcontract | |

VENDOR CERTIFICATION: *I hereby affirm that the information supplied in support of this waiver request is true and correct, and that this request is made in good faith.*

Signature: **Date:**

Print Name: **Title:**

Shaded area below is for agency completion only

AGENCY CHIEF CONTRACTING OFFICER APPROVAL
Signature: **Date:**

CITY CHIEF PROCUREMENT OFFICER APPROVAL
Signature:

Date:

RFP: STARS & CACS and Support Services EPIN 83619P0003

Waiver Determination

Full Waiver Approved: ☐
Waiver Denied: ☐
Partial Waiver Approved: ☐
Revised Participation Goal:_____%

ATTACHMENT L

Compliance with HireNYC and Reporting Requirements

The Hiring and Employment Rider shall apply to contracts valued at $1 million or more for all goods, services and construction except human services contracts that are subject to the Public Assistance Hiring Commitment Rider. The Rider describes the Hire NYC process and obligations, including reporting requirements throughout the life of the contract. The Hire NYC process requires contractors to enroll with the Hire NYC system within thirty days after the registration of the contract subject to this solicitation, to provide information regarding all entry to mid-level job opportunities arising from this contract and located in New York City, and to agree to interview qualified candidates from HireNYC for those opportunities. The Rider also includes reporting requirements unrelated to HireNYC.

APPENDIX A

GENERAL PROVISIONS GOVERNING CONTRACTS FOR CONSULTANTS, PROFESSIONAL, TECHNICAL, HUMAN, AND CLIENT SERVICES

RFP: STARS & CACS and Support Services EPIN 83619P0003

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ARTICLE 1 - DEFINITIONS

Section 1.01 Definitions

The following words and expressions, or pronouns used in their stead, shall, wherever they appear in this Agreement, be construed as follows, unless a different meaning is clear from the context:

A.   "Agency Chief Contracting Officer" or "ACCO" means the position delegated authority by the Agency Head to organize and supervise the procurement activity of subordinate Agency staff in conjunction with the City Chief Procurement Officer.

B.   "Agreement" means the various documents, including this Appendix A, that constitute the contract between the Contractor and the City.

C.   "City" means the City of New York.

D.   "City Chief Procurement Officer" or "CCPO" means the position delegated authority by the Mayor to coordinate and oversee the procurement activity of Mayoral agency staff, including the ACCOs.

E.   "Commissioner" or "Agency Head" means the head of the Department or his or her duly authorized representative. The term "duly authorized representative" shall include any person or persons acting within the limits of his or her authority.

F.   "Comptroller" means the Comptroller of the City of New York.

G.   "Contractor" means the entity entering into this Agreement with the City.

H.   "Days" means calendar days unless otherwise specifically noted to mean business days.

I.   "Department" or "Agency" means the City agency or office through which the City has entered into this Agreement.

J.   "Law" or "Laws" means the New York City Charter ("Charter"), the New York City Administrative Code ("Admin. Code"), a local rule of the City of New York, the Constitutions of the United States and the State of New York, a statute of the United States or of the State of New York and any ordinance, rule or regulation having the force of law and adopted pursuant thereto, as amended, and common law.

K.   "Procurement Policy Board" or "PPB" means the board established pursuant to Charter § 311 whose function is to establish comprehensive and consistent procurement policies and rules that have broad application throughout the City.

L. "PPB Rules" means the rules of the Procurement Policy Board as set forth in Title 9 of the Rules of the City of New York ("RCNY"), § 1-01 *et seq*.

M. "SBS" means the New York City Department of Small Business Services.

N. "State" means the State of New York.

ARTICLE 2 – REPRESENTATIONS, WARRANTIES, CERTIFICATIONS, AND DISCLOSURES

Section 2.01 Procurement of Agreement

A. The Contractor represents and warrants that, with respect to securing or soliciting this Agreement, the Contractor is in compliance with the requirements of the New York State Lobbying Law (Legislative Law §§ 1-a *et seq*.). The Contractor makes such representation and warranty to induce the City to enter into this Agreement and the City relies upon such representation and warranty in the execution of this Agreement.

B. For any breach or violation of the representation and warranty set forth in Paragraph A above, the Commissioner shall have the right to annul this Agreement without liability, entitling the City to recover all monies paid to the Contractor; and the Contractor shall not make claim for, or be entitled to recover, any sum or sums due under this Agreement. The rights and remedies of the City provided in this Section 2.01(B) are not exclusive and are in addition to all other rights and remedies allowed by Law or under this Agreement.

Section 2.02 Conflicts of Interest

A. The Contractor represents and warrants that neither it nor any of its directors, officers, members, partners or employees, has any interest nor shall they acquire any interest, directly or indirectly, which conflicts in any manner or degree with the performance of this Agreement. The Contractor further represents and warrants that no person having such interest or possible interest shall be employed by or connected with the Contractor in the performance of this Agreement.

B. Consistent with Charter § 2604 and other related provisions of the Charter, the Admin. Code and the New York State Penal Law, no elected official or other officer or employee of the City, nor any person whose salary is payable, in whole or in part, from the City Treasury, shall participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership or other entity in which he or she is, directly or indirectly, interested; nor shall any such official, officer, employee, or person have any interest in, or in the proceeds of, this Agreement. This Section 2.02(B) shall not prevent directors, officers, members, partners, or employees of the Contractor from participating in decisions relating to this Agreement where their sole personal interest is in the Contractor.

C.   The Contractor shall not employ a person or permit a person to serve as a member of the Board of Directors or as an officer of the Contractor if such employment or service would violate Chapter 68 of the Charter.

Section 2.03 Certification Relating to Fair Practices

A.   The Contractor and each person signing on its behalf certifies, under penalties of perjury, that to the best of its, his or her knowledge and belief:

1.   The prices and other material terms set forth in this Agreement have been arrived at independently, without collusion, consultation, communication, or agreement with any other bidder or proposer or with any competitor as to any matter relating to such prices or terms for the purpose of restricting competition;

2.   Unless otherwise required by Law or where a schedule of rates or prices is uniformly established by a government agency through regulation, policy, or directive, the prices and other material terms set forth in this Agreement that have been quoted in this Agreement and on the bid or proposal submitted by the Contractor have not been knowingly disclosed by the Contractor, directly or indirectly, to any other bidder or proposer or to any competitor prior to the bid or proposal opening; and

3.   No attempt has been made or will be made by the Contractor to induce any other person or entity to submit or not to submit a bid or proposal for the purpose of restricting competition.

B.   The fact that the Contractor (i) has published price lists, rates, or tariffs covering items being procured, (ii) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (iii) has sold the same items to other customers at the same prices and/or terms being bid or proposed, does not constitute, without more, a disclosure within the meaning of this Section 2.03.

Section 2.04 Disclosures Relating to Vendor Responsibility

The Contractor represents and warrants that it has duly executed and filed all disclosures as applicable, in accordance with Admin. Code § 6-116.2, PPB Rule § 2-08, and the policies and procedures of the Mayor's Office of Contract Services. The Contractor acknowledges that the Department's reliance on the completeness and veracity of the information stated therein is a material condition to the execution of this Agreement, and the Contractor represents and warrants that the information it and its principals have provided is accurate and complete.

Section 2.05 Disclosure Relating to Bankruptcy and Reorganization

If the Contractor files for bankruptcy or reorganization under Chapter Seven or Chapter Eleven of the United States Bankruptcy Code, the Contractor shall disclose such action to the Department within seven days of filing.

Section 2.06 Authority to Execute Agreement

The Contractor represents and warrants that: (i) its execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate action on its part; (ii) it has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; and (iii) once executed and delivered, this Agreement will constitute its legal, valid and binding obligation, enforceable in accordance with its terms.

ARTICLE 3 - ASSIGNMENT AND SUBCONTRACTING

Section 3.01 Assignment

A.   The Contractor shall not assign, transfer, convey, or otherwise dispose of this Agreement, or the right to execute it, or the right, title, or interest in or to it or any part of it, or assign, by power of attorney or otherwise, any of the monies due or to become due under this Agreement, without the prior written consent of the Commissioner. The giving of any such consent to a particular assignment shall not dispense with the necessity of such consent to any further or other assignments. Any such assignment, transfer, conveyance, or other disposition without such written consent shall be void.

B.   Before entering into any such assignment, transfer, conveyance, or other disposal of this Agreement, the Contractor shall submit a written request for approval to the Department giving the name and address of the proposed assignee. The proposed assignee's disclosure that is required by PPB Rule § 2-08(e) must be submitted within 30 Days after the ACCO has granted preliminary written approval of the proposed assignee, if required. Upon the request of the Department, the Contractor shall provide any other information demonstrating that the proposed assignee has the necessary facilities, skill, integrity, past experience, and financial resources to perform the specified services in accordance with the terms and conditions of this Agreement. The Department shall make a final determination in writing approving or disapproving the assignee after receiving all requested information.

C.   Failure to obtain the prior written consent to such an assignment, transfer, conveyance, or other disposition may result in the revocation and annulment of this Agreement, at the option of the Commissioner. The City shall thereupon be relieved and discharged from any further liability and obligation to the Contractor, its assignees, or transferees, who shall forfeit all monies earned under this Agreement, except so much as may be necessary to pay the Contractor's employees.

D.   The provisions of this Section 3.01 shall not hinder, prevent, or affect an assignment by the Contractor for the benefit of its creditors made pursuant to the Laws of the State.

E.   This Agreement may be assigned, in whole or in part, by the City to any corporation, agency, or instrumentality having authority to accept such assignment. The City shall provide the Contractor with written notice of any such assignment.

Section 3.02 Subcontracting

A.   In accordance with PPB Rule § 4-13, all subcontractors must be approved by the Department prior to commencing work under a subcontract.

1.   *Approval when subcontract is $20,000 or less.* The Department hereby grants approval for all subcontractors providing services covered by this Agreement pursuant to a subcontract in an amount that does not exceed $20,000.00. The Contractor must submit monthly reports to the Department listing all such subcontractors and shall list the subcontractor in the City's Payee Information Portal (www.nyc.gov/pip).

2.   *Approval when subcontract is greater than $20,000.*

a.   The Contractor shall not enter into any subcontract for an amount greater than $20,000.00 without the prior approval by the Department of the subcontractor.

b. Prior to entering into any subcontract for an amount greater than $20,000.00, the Contractor shall submit a written request for the approval of the proposed subcontractor to the Department giving the name and address of the proposed subcontractor, the portion of the work and materials that it is to perform and furnish, and the estimated cost of the subcontract. If the subcontractor is providing professional services under this Agreement for which professional liability insurance or errors and omissions insurance is reasonably commercially available, the Contractor shall submit proof of professional liability insurance in the amount required by Article 7. In addition, the Contractor shall list the proposed subcontractor in the City's Payee Information Portal (www.nyc.gov/pip) and provide the following information: maximum subcontract value, description of subcontractor work, start and end date of the subcontract, and the subcontractor's industry.[1]

c. Upon receipt the information required above, the Department in its discretion may grant or deny preliminary approval for the Contractor to contract with the subcontractor.

d. The Department shall notify the Contractor within 30 Days whether preliminary approval has been granted. If preliminary approval is granted, the Contractor shall provide such documentation as may be requested by the Department to show that the proposed subcontractor has the necessary facilities, skill, integrity, past experience and financial resources to perform the required work, including, the proposed subcontract and/or any of the items listed in PPB Rule 4-13(d)(3).

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[1] Assistance establishing a Payee Information Portal account and using the system may be obtained by emailing the Financial Information Services Agency Help Desk at pip@fisa.nyc.gov.

e. Upon receipt of all relevant documentation, the Department shall notify the Contractor in writing whether the proposed subcontractor is approved. If the proposed subcontractor is not approved, the Contractor may submit another proposed subcontractor unless the Contractor decides to do the work. No subcontractor shall be permitted to perform work unless approved by the Department.

f. For proposed subcontracts that do not exceed $25,000.00, the Department's approval shall be deemed granted if the Department does not issue a written approval or disapproval within 45 Days of the Department's receipt of the written request for approval or, if PPB Rule 2-08(e) is applicable, within 45 Days of the Department's acknowledged receipt of fully completed disclosures for the subcontractor.

B.　　All subcontracts must be in writing. All subcontracts shall contain provisions specifying that:

1.　　The work performed by the subcontractor must be in accordance with the terms of the Agreement between the City and the Contractor;

2.　　Nothing contained in the agreement between the Contractor and the subcontractor shall impair the rights of the City;

3.　　Nothing contained in the agreement between the Contractor and the subcontractor, or under the Agreement between the City and the Contractor, shall create any contractual relation between the subcontractor and the City; and

4.　　The subcontractor specifically agrees to be bound by Section 4.05(D) and Article 5 of this Appendix A and specifically agrees that the City may enforce such provisions directly against the subcontractor as if the City were a party to the subcontract.

C.　　The Contractor agrees that it is as fully responsible to the Department for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by such subcontractors as it is for the acts and omissions of any person directly employed by it.

D.　　For determining the value of a subcontract, all subcontracts with the same subcontractor shall be aggregated.

E.　　The Department may revoke the approval of a subcontractor granted or deemed granted pursuant to Section 3.02(A) if revocation is deemed to be in the interest of the City in writing on no less than 10 Days' notice unless a shorter period is warranted by considerations of health, safety, integrity issues, or other similar factors. Upon the effective date of such revocation, the Contractor shall cause the subcontractor to cease all work under the Agreement. The City shall not incur any further obligation for services performed by such subcontractor pursuant to this Agreement beyond the effective date of the revocation. The City shall pay for

services provided by the subcontractor in accordance with this Agreement prior to the effective date of revocation.

F.   The Department's approval of a subcontractor shall not relieve the Contractor of any of its responsibilities, duties, and liabilities under this Agreement. At the request of the Department, the Contractor shall provide the Department a copy of any subcontract.

G.   Individual employer-employee contracts are not subcontracts subject to the requirements of this Section 3.02.

H.   The Contractor shall report in the City's Payee Information Portal payments made to each subcontractor within 30 days of making the payment. If any of the information provided in accordance with Section 3.02(A)(2)(b) changes during the term of this Agreement, the Contractor shall update the information in such Portal accordingly. Failure of the Contractor to list a subcontractor and/or to report subcontractor payments in a timely fashion may result in the Department declaring the Contractor in default of the Agreement and will subject Contractor to liquidated damages in the amount of $100 per day for each day that the Contractor fails to identify a subcontractor along with the required information about the subcontractor and/or fails to report payments to a subcontractor, beyond the time frames set forth herein or in the notice from the City.

ARTICLE 4 - LABOR PROVISIONS

Section 4.01 Independent Contractor Status

The Contractor and the City agree that the Contractor is an independent contractor and not an employee, subsidiary, affiliate, division, department, agency, office, or unit of the City. Accordingly, the Contractor and its employees, officers, and agents shall not, by reason of this Agreement or any performance pursuant to or in connection with this Agreement, assert the existence of any relationship or status on the part of the Contractor, with respect to the City, that differs from or is inconsistent with that of an independent contractor.

Section 4.02 Employees and Subcontractors

All persons who are employed by the Contractor and all the Contractor's subcontractors (including without limitation, consultants and independent contractors) that are retained to perform services under or in connection with this Agreement are neither employees of the City nor under contract with the City. The Contractor, and not the City, is responsible for their work, direction, compensation, and personal conduct while the Contractor is engaged under this Agreement. Nothing in this Agreement, and no entity or person's performance pursuant to or in connection with this Agreement, shall create any relationship between the City and the Contractor's employees, agents, subcontractors, or subcontractor's employees or agents (including without limitation, a contractual relationship, employer-employee relationship, or quasi-employer/quasi-employee relationship) or impose any liability or duty on the City (i) for or on account of the acts, omissions, liabilities, rights or obligations of the Contractor, its

employees or agents, its subcontractors, or its subcontractor's employees or agents (including without limitation, obligations set forth in any collective bargaining agreement); or (ii) for taxes of any nature; or (iii) for any right or benefit applicable to an official or employee of the City or to any officer, agent, or employee of the Contractor or any other entity (including without limitation, Workers' Compensation coverage, Employers' Liability coverage, Disability Benefits coverage, Unemployment Insurance benefits, Social Security coverage, employee health and welfare benefits or employee retirement benefits, membership or credit). The Contractor and its employees, officers, and agents shall not, by reason of this Agreement or any performance pursuant to or in connection with this Agreement, (i) hold themselves out as, or claim to be, officials or employees of the City, including any department, agency, office, or unit of the City, or (ii) make or support in any way on behalf of or for the benefit of the Contractor, its employees, officers, or agents any demand, application, or claim upon or against the City for any right or benefit applicable to an official or employee of the City or to any officer, agent, or employee of the Contractor or any other entity. Except as specifically stated in this Agreement, nothing in the Agreement and no performance pursuant to or in connection with the Agreement shall impose any liability or duty on the City to any person or entity whatsoever.

Section 4.03 Removal of Individuals Performing Work

The Contractor shall not have anyone perform work under this Agreement who is not competent, faithful, and skilled in the work for which he or she shall be employed. Whenever the Commissioner shall inform the Contractor, in writing, that any individual is, in his or her opinion, incompetent, unfaithful, or unskilled, such individual shall no longer perform work under this Agreement. Prior to making a determination to direct a Contractor that an individual shall no longer perform work under this Agreement, the Commissioner shall provide the Contractor an opportunity to be heard on no less than five Days' written notice. The Commissioner may direct the Contractor to prohibit the individual from performing work under the Agreement pending the opportunity to be heard and the Commissioner's determination.

Section 4.04 Minimum Wage; Living Wage

A.   Except for those employees whose minimum wage is required to be fixed in accordance with N.Y. Labor Law §§ 220 or 230 or by Admin. Code § 6-109, all persons employed by the Contractor in the performance of this Agreement shall be paid, without subsequent deduction or rebate, unless expressly authorized by Law, not less than the minimum wage as prescribed by Law. Any breach of this Section 4.04 shall be deemed a material breach of this Agreement.

B.   If this Agreement involves the provision of homecare services, day care services, head start services, services to persons with cerebral palsy, building services, food services, or temporary services, as those services are defined in Admin. Code § 6-109 ("Section 6-109"), in accordance with Section 6-109, the Contractor agrees as follows:

1.	The Contractor shall comply with the requirements of Section 6-109, including, where applicable, the payment of either a prevailing wage or a living wage, as those terms are defined in Section 6-109.

2.	The Contractor shall not retaliate, discharge, demote, suspend, take adverse employment action in the terms and conditions of employment or otherwise discriminate against any employee for reporting or asserting a violation of Section 6-109, for seeking or communicating information regarding rights conferred by Section 6-109, for exercising any other rights protected under Section 6-109, or for participating in any investigatory or court proceeding relating to Section 6-109. This protection shall also apply to any employee or his or her representative who in good faith alleges a violation of Section 6-109, or who seeks or communicates information regarding rights conferred by Section 6-109 in circumstances where he or she in good faith believes it applies.

3.	The Contractor shall maintain original payroll records for each of its covered employees reflecting the days and hours worked on contracts, projects, or assignments that are subject to the requirements of Section 6-109, and the wages paid and benefits provided for such hours worked. The Contractor shall maintain these records for the duration of the term of this Agreement and shall retain them for a period of four years after completion of this Agreement. For contracts involving building services, food services, or temporary services, the Contractor shall submit copies of payroll records, certified by the Contractor under penalty of perjury to be true and accurate, to the Department with every requisition for payment. For contracts involving homecare, day care, head start or services to persons with cerebral palsy, the Contractor shall submit either certified payroll records or categorical information about the wages, benefits, and job classifications of covered employees of the Contractor, and of any subcontractors, which shall be the substantial equivalent of the information required in Section 6-109(2)(a)(iii).

4.	The Contractor and all subcontractors shall pay all covered employees by check and shall provide employees check stubs or other documentation at least once each month containing information sufficient to document compliance with the requirements of the Living Wage Law concerning living wages, prevailing wages, supplements, and health benefits. In addition, if this Agreement is for an amount greater than $1,000,000.00, checks issued by the Contractor to covered employees shall be generated by a payroll service or automated payroll system (an in-house system may be used if approved by the Department). For any subcontract for an amount greater than $750,000.00, checks issued by a subcontractor to covered employees shall be generated by a payroll service or automated payroll system (an in-house system may be used if approved by the Department).

5.	The Department will provide written notices to the Contractor, prepared by the Comptroller, detailing the wages, benefits, and other protections to which covered employees are entitled under Section 6-109. Such notices will be provided in English, Spanish and other languages spoken by ten percent or more of a covered employer's covered employees. Throughout the term of this Agreement, the Contractor shall post in a

prominent and accessible place at every work site and provide each covered employee a copy of the written notices provided by the Department. The Contractor shall provide the notices to its subcontractors and require them to be posted and provided to each covered employee.

6.   The Contractor shall ensure that its subcontractors comply with the requirements of Section 6-109, and shall provide written notification to its subcontractors of those requirements. All subcontracts made by the Contractor shall be in writing and shall include provisions relating to the wages, supplements, and health benefits required by Section 6-109. No work may be performed by a subcontractor employing covered employees prior to the Contractor entering into a written subcontract with the subcontractor.

7.   Each year throughout the term of the Agreement and whenever requesting the Department's approval of a subcontractor, the Contractor shall submit to the Department an updated certification, as required by Section 6-109 and in the form of the certification attached to this Agreement, identifying any changes to the current certification.

8.   Failure to comply with the requirements of Section 6-109 may, in the discretion of the Department, constitute a material breach by the Contractor of the terms of this Agreement. If the Contractor and/or subcontractor receives written notice of such a breach and fails to cure such breach within 30 Days, the City shall have the right to pursue any rights or remedies available under this Agreement or under applicable law, including termination of the Agreement. If the Contractor fails to perform in accordance with any of the requirements of Section 6-109 and fails to cure such failure in accordance with the preceding sentence, and there is a continued need for the service, the City may obtain from another source the required service as specified in the original Agreement, or any part thereof, and may charge the Contractor for any difference in price resulting from the alternative arrangements, and may, as appropriate, invoke such other sanctions as are available under the Agreement and applicable law. In addition, the Contractor agrees to pay for all costs incurred by the City in enforcing the requirements of Section 6-109, including the cost of any investigation conducted by or on behalf of the Department or the Comptroller, where the City discovers that the Contractor or its subcontractor(s) failed to comply with the requirements of this Section 4.04(B) or of Section 6-109. The Contractor also agrees, that should it fail or refuse to pay for any such investigation, the Department is hereby authorized to deduct from a Contractor's account an amount equal to the cost of such investigation.

Section 4.05 Non-Discrimination in Employment

A.   General Prohibition. To the extent required by law, the Contractor shall not unlawfully discriminate against any employee or applicant for employment because of actual or perceived age, religion, religious practice, creed, sex, gender, gender identity or gender expression, sexual orientation, status as a victim of domestic violence, stalking, and sex offenses, familial status, partnership status, marital status, caregiver status, pregnancy, childbirth or related

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medical condition, disability, presence of a service animal, predisposing genetic characteristics, race, color, national origin (including ancestry), alienage, citizenship status, political activities or recreational activities as defined in N.Y. Labor Law 201-d, arrest or conviction record, credit history, military status, uniformed service, unemployment status, salary history, or any other protected class of individuals as defined by City, State or Federal laws, rules or regulations. The Contractor shall comply with all statutory and regulatory obligations to provide reasonable accommodations to individuals with disabilities, due to pregnancy, childbirth, or a related medical condition, due to status as a victim of domestic violence, stalking, or sex offenses, or due to religion.

B.   N.Y. Labor Law § 220-e. If this Agreement is for the construction, alteration or repair of any public building or public work or for the manufacture, sale, or distribution of materials, equipment, or supplies, the Contractor agrees, as required by N.Y. Labor Law § 220-e, that:

1.   In the hiring of employees for the performance of work under this Agreement or any subcontract hereunder, neither the Contractor, subcontractor, nor any person acting on behalf of such Contractor or subcontractor, shall by reason of race, creed, color, disability, sex or national origin discriminate against any citizen of the State of New York who is qualified and available to perform the work to which the employment relates;

2.   Neither the Contractor, subcontractor, nor any person on his or her behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this Agreement on account of race, creed, color, disability, sex or national origin;

3.   There may be deducted from the amount payable to the Contractor by the City under this Agreement a penalty of $50.00 for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of this Agreement; and

4.   This Agreement may be terminated by the City, and all monies due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of this Section 4.05.

The provisions of this Section 4.05(B) shall be limited to operations performed within the territorial limits of the State of New York.

C.   Admin. Code § 6-108. If this Agreement is for the construction, alteration or repair of buildings or the construction or repair of streets or highways, or for the manufacture, sale, or distribution of materials, equipment or supplies, the Contractor agrees, as required by Admin. Code § 6-108, that:

1.   It shall be unlawful for any person engaged in the construction, alteration or repair of buildings or engaged in the construction or repair of streets or highways

pursuant to a contract with the City or engaged in the manufacture, sale or distribution of materials, equipment or supplies pursuant to a contract with the City to refuse to employ or to refuse to continue in any employment any person on account of the race, color or creed of such person.

       2.   It shall be unlawful for any person or any servant, agent or employee of any person, described in Section 4.05(C)(1) above, to ask, indicate or transmit, orally or in writing, directly or indirectly, the race, color, creed or religious affiliation of any person employed or seeking employment from such person, firm or corporation.
Breach of the foregoing provisions shall be deemed a breach of a material provision of this Agreement.

Any person, or the employee, manager or owner of or officer of such firm or corporation who shall violate any of the provisions of this Section 4.05(C) shall, upon conviction thereof, be punished by a fine of not more than $100.00 or by imprisonment for not more than 30 Days, or both.

       D.   E.O. 50 -- Equal Employment Opportunity

       1.   This Agreement is subject to the requirements of City Executive Order No. 50 (1980) ("E.O. 50"), as revised, and the rules set forth at 66 RCNY §§ 10-01 *et seq.* No agreement will be awarded unless and until these requirements have been complied with in their entirety. The Contractor agrees that it:

       a. Will not discriminate unlawfully against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, marital status, sexual orientation or citizenship status with respect to all employment decisions including, but not limited to, recruitment, hiring, upgrading, demotion, downgrading, transfer, training, rates of pay or other forms of compensation, layoff, termination, and all other terms and conditions of employment;

       b. Will not discriminate unlawfully in the selection of subcontractors on the basis of the owners', partners' or shareholders' race, color, creed, national origin, sex, age, disability, marital status, sexual orientation, or citizenship status;

       c. Will state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that all qualified applicants will receive consideration for employment without unlawful discrimination based on race, color, creed, national origin, sex, age, disability, marital status, sexual orientation or citizenship status, and that it is an equal employment opportunity employer;

       d. Will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or memorandum of understanding, written notification of its equal employment opportunity

commitments under E.O. 50 and the rules and regulations promulgated thereunder;

     e. Will furnish before this Agreement is awarded all information and reports including an Employment Report which are required by E.O. 50, the rules and regulations promulgated thereunder, and orders of the SBS, Division of Labor Services ("DLS"); and

     f. Will permit DLS to have access to all relevant books, records, and accounts for the purposes of investigation to ascertain compliance with such rules, regulations, and orders.

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

     a. Disapproval of the Contractor; and/or

     b. Suspension or termination of the Agreement; and/or

     c. Declaring the Contractor in default; and/or

     d. In lieu of any of the foregoing sanctions, imposition of an employment program.

     3.   Failure to comply with E.O. 50 and the rules and regulations promulgated thereunder in one or more instances may result in the Department declaring the Contractor to be non-responsible.

     4.   The Contractor agrees to include the provisions of the foregoing Sections 4.05(D)(1)-(3) in every subcontract or purchase order in excess of $100,000.00 to which it becomes a party unless exempted by E.O. 50 and the rules and regulations promulgated thereunder, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Director of DLS as a means of enforcing such provisions including sanctions for noncompliance. A supplier of unfinished products to the Contractor needed to produce the item contracted for shall not be considered a subcontractor or vendor for purposes of this Section 4.05(D)(4).

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

of unfinished products to the Contractor needed to produce the item contracted for shall not be considered a subcontractor for purposes of this Section 4.05(D)(5).

6.   Nothing contained in this Section 4.05(D) shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, that is operated, supervised or controlled by or in connection with a religious organization, from lawfully limiting employment or lawfully giving preference to persons of the same religion or denomination or from lawfully making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained.

Section 4.06 Paid Sick Leave Law

A.   *Introduction and General Provisions.*

1.   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.[2] Contractors of the City or of other governmental entities may be required to provide sick time pursuant to the PSLL.

2.   The PSLL became effective on April 1, 2014, and is codified at Title 20, Chapter 8, of the Admin. Code. It is administered by the City'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").

3.   The Contractor agrees to comply in all respects with the PSLL and the Rules, and as amended, if applicable, in the performance of this Agreement. The Contractor further acknowledges that such compliance is a material term of this Agreement and that failure to comply with the PSLL in performance of this Agreement may result in its termination.

4.   The Contractor must notify the ACCO in writing within 10 Days of receipt of a complaint (whether oral or written) regarding the PSLL involving the performance of this Agreement. Additionally, the 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.

5.   The PSLL is summarized below for the convenience of the Contractor. The Contractor is advised to review the PSLL and Rules in their entirety. On the website 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 the Contractor can get more information about how to comply with the PSLL. The

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[2] Pursuant to the PSLL, if fewer than five employees work for the same employer, as determined pursuant Admin. Code § 20-912(g), such employer has the option of providing such employees uncompensated sick time.

Contractor acknowledges that it is responsible for compliance with the PSLL notwithstanding any inconsistent language contained herein.

B.   *Pursuant to the PSLL and the Rules: Applicability, Accrual, and Use.*

1.   An employee who works within the City of New York for more than eighty 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 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.

2.   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 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.

3.   An employee entitled to sick time pursuant to the PSLL may use sick time for any of the following:

a. 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;

b. 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;

c. closure of such employee's place of business by order of a public official due to a public health emergency; or

d. such employee's need to care for a child whose school or childcare provider has been closed due to a public health emergency.

4.   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.

5.   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.

6.   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.

C.   *Exemptions and Exceptions*. Notwithstanding the above, the PSLL does not apply to any of the following:

1.   an independent contractor who does not meet the definition of employee under N.Y. Labor Law § 190(2);

2.   an employee covered by a valid collective bargaining agreement in effect on April 1, 2014, until the termination of such agreement;

3.   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;

4.   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;

5.   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;

6.   an employee in a work study program under Section 2753 of Chapter 42 of the United States Code;

7.   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

8.   a participant in a Work Experience Program (WEP) under N.Y. Social Services Law § 336-c.

D.   *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.

E.   *Notice of Rights.*

1.   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.

2.   Any person or entity that willfully violates these notice requirements is subject to a civil penalty in an amount not to exceed $50.00 for each employee who was not given appropriate notice.

F.   *Records.* An employer must retain records documenting its compliance with the PSLL for a period of at least three years, and must allow DCA to access such records in furtherance of an investigation related to an alleged violation of the PSLL.

G.   *Enforcement and Penalties.*

1.   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.

2.   DCA has the power to grant an employee or former employee all appropriate relief as set forth in Admin. 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 $500.00 for a first violation, $750.00 for a second violation within two years of the first violation, and $1,000.00 for each succeeding violation within two years of the previous violation.

H.   *More Generous Polices 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.

Section 4.07 Whistleblower Protection Expansion Act

A.   In accordance with Local Laws 30 and 33 of 2012, codified at Admin. Code §§ 6-132 and 12-113, respectively,

1.   Contractor shall not take an adverse personnel action with respect to an officer or employee in retaliation for such officer or employee making a report of information concerning conduct which such officer or employee knows or reasonably believes to involve corruption, criminal activity, conflict of interest, gross mismanagement or abuse of authority by any officer or employee relating to this Agreement to (i) the Commissioner of the Department of Investigation, (ii) a member of the New York City Council, the Public Advocate, or the Comptroller, or (iii) the City Chief Procurement Officer, ACCO, Agency head, or Commissioner.

2.   If any of Contractor's officers or employees believes that he or she has been the subject of an adverse personnel action in violation of this Section 4.07, he or she shall be entitled to bring a cause of action against Contractor to recover all relief necessary to make him or her whole. Such relief may include but is not limited to: (i) an injunction to restrain continued retaliation, (ii) reinstatement to the position such employee would have had but for the retaliation or to an equivalent position, (iii) reinstatement of full fringe benefits and seniority rights, (iv) payment of two times back pay, plus interest, and (v) compensation for any special damages sustained as a result of the retaliation, including litigation costs and reasonable attorney's fees.

3.   Contractor shall post a notice provided by the City (attached hereto) in a prominent and accessible place on any site where work pursuant to the Agreement is performed that contains information about:

a. how its employees can report to the New York City Department of Investigation allegations of fraud, false claims, criminality or corruption arising out of or in connection with the Agreement; and

b. the rights and remedies afforded to its employees under Admin. Code §§ 7-805 (the New York City False Claims Act) and 12-113 (the Whistleblower Protection Expansion Act) for lawful acts taken in connection with the reporting of allegations of fraud, false claims, criminality or corruption in connection with the Agreement.

4.   For the purposes of this Section 4.07, "adverse personnel action" includes dismissal, demotion, suspension, disciplinary action, negative performance evaluation, any action resulting in loss of staff, office space, equipment or other benefit, failure to appoint, failure to promote, or any transfer or assignment or failure to transfer or assign against the wishes of the affected officer or employee.

5.   This Section 4.07 is applicable to all of Contractor's subcontractors having subcontracts with a value in excess of $100,000.00; accordingly, Contractor shall include this Section 4.07 in all subcontracts with a value in excess of $100,000.00.

B.   Section 4.07 is not applicable to this Agreement if it is valued at $100,000.00 or less. Sections 4.07(A)(1), (2), (4), and (5) are not applicable to this Agreement if it was solicited pursuant to a finding of an emergency. Section 4.07(A)(3) is neither applicable to this Agreement if it was solicited prior to October 18, 2012 nor if it is a renewal of a contract executed prior to October 18, 2012.

ARTICLE 5 - RECORDS, AUDITS, REPORTS, AND INVESTIGATIONS

Section 5.01 Books and Records

The Contractor agrees to maintain separate and accurate books, records, documents, and other evidence, and to utilize appropriate accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement.

Section 5.02 Retention of Records

The Contractor agrees to retain all books, records, documents, other evidence relevant to this Agreement, including those required pursuant to Section 5.01, for six years after the final payment or expiration or termination of this Agreement, or for a period otherwise prescribed by Law, whichever is later. In addition, if any litigation, claim, or audit concerning this Agreement has commenced before the expiration of the six-year period, the books, records, documents, and other evidence must be retained until the completion of such litigation, claim, or audit. Any books, records, documents, and other evidence that are created in an electronic format in the regular course of business may be retained in an electronic format. Any books, records, documents, or other evidence that are created in the regular course of business as a paper copy may be retained in an electronic format provided that they satisfy the requirements of N.Y. Civil Practice Law and Rules ("CPLR") 4539(b), including the requirement that the reproduction is created in a manner "which does not permit additions, deletions, or changes without leaving a record of such additions, deletions, or changes." Furthermore, the Contractor agrees to waive any objection to the admissibility of any such books, records, documents, or other evidence on the grounds that such documents do not satisfy CPLR 4539(b).

Section 5.03 Inspection

A.   At any time during the Agreement or during the record retention period set forth in Section 5.02, the City, including the Department and the Department's Office of the Inspector General, as well as City, State, and federal auditors and any other persons duly authorized by the City shall, upon reasonable notice, have full access to and the right to examine and copy all books, records, documents, and other evidence maintained or retained by or on behalf of the Contractor pursuant to this Article 5. Notwithstanding any provision herein regarding notice of inspection, all books, records, documents, and other evidence of the Contractor kept pursuant to this Agreement shall be subject to immediate inspection, review, and copying by the Department's Office of the Inspector General, the Comptroller, and/or federal auditors without prior notice and at no additional cost to the City. The Contractor shall make such books, records documents, and other evidence available for inspection in the City of New York or shall reimburse the City for expenses associated with the out-of-City inspection.

B.   The Department shall have the right to have representatives of the Department or of the City, State or federal government present to observe the services being performed. If observation of particular services or activity would constitute a waiver of a legal privilege or violate the Law or an ethical obligation under the New York Rules of Professional Conduct for attorneys, National Association of Social Workers Code of Ethics or other similar code governing the provision of a profession's services in New York State, the Contractor shall promptly inform the Department or other entity seeking to observe such work or activity. Such restriction shall not act to prevent government representatives from inspecting the provision of services in a manner that allows the representatives to ensure that services are being performed in accordance with this Agreement.

C.   The Contractor shall not be entitled to final payment until the Contractor has complied with any request for inspection or access given under this Section 5.03.

Section 5.04 Audit

A.   This Agreement and all books, records, documents, and other evidence required to be maintained or retained pursuant to this Agreement, including all vouchers or invoices presented for payment and the books, records, and other documents upon which such vouchers or invoices are based (e.g., reports, cancelled checks, accounts, and all other similar material), are subject to audit by (i) the City, including the Comptroller, the Department, and the Department's Office of the Inspector General, (ii) the State, (iii) the federal government, and (iv) other persons duly authorized by the City. Such audits may include examination and review of the source and application of all funds whether from the City, the State, the federal government, private sources, or otherwise.

B.   Audits by the City, including the Comptroller, the Department, and the Department's Office of the Inspector General, are performed pursuant to the powers and responsibilities conferred by the Charter and the Admin. Code, as well as all orders, rules, and regulations promulgated pursuant to the Charter and Admin. Code.

C.   The Contractor shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by the Department and by the Comptroller in the exercise of his/her powers under Law.

D.   The Contractor shall not be entitled to final payment until the Contractor has complied with the requirements of this Section 5.04.

Section 5.05 No Removal of Records from Premises

Where performance of this Agreement involves use by the Contractor of any City books, records, documents, or data (in hard copy, or electronic or other format now known or developed in the future) at City facilities or offices, the Contractor shall not remove any such items or material (in the format in which it originally existed, or in any other converted or derived format) from such facility or office without the prior written approval of the Department's designated official. Upon the request by the Department at any time during the Agreement or after the Agreement has expired or terminated, the Contractor shall return to the Department any City books, records, documents, or data that has been removed from City premises.

Section 5.06 Electronic Records

As used in this Appendix A, the terms "books," "records," "documents," and "other evidence" refer to electronic versions as well as hard copy versions.

Section 5.07 Investigations Clause

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

B.

    1.   If any person who has been advised that his or her statement, and any information from such statement, will not be used against him or her in any subsequent criminal proceeding refuses to testify before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of or performance under any transaction, agreement, lease, permit, contract, or license entered into with the City, or 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, or;

    2.   If any person refuses to testify for a reason other than the assertion of his or her privilege against self-incrimination in an investigation, audit or inquiry conducted

by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest in, and is seeking testimony concerning the award of, or performance under, any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision thereof or any local development corporation within the City, then;

C.

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

7. If any non-governmental party to the hearing requests an adjournment, the Commissioner or Agency Head who convened the hearing may, upon granting the adjournment, suspend any contract, lease, permit, or license pending the final determination pursuant to Paragraph E below without the City incurring any penalty or damages for delay or otherwise.

D. The penalties that may attach after a final determination by the Commissioner or Agency Head may include but shall not exceed:

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

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

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

1. The party's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including but not limited to the

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discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees or fiduciaries whose testimony is sought.

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

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

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

F.   Definitions

1.   The term "license" or "permit" as used in this Section shall be defined as a license, permit, franchise, or concession not granted as a matter of right.

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

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

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

G.   In addition to and notwithstanding any other provision of this Agreement, the Commissioner or Agency Head may in his or her sole discretion terminate this Agreement upon not less than three (3) Days written notice in the event the Contractor fails to promptly report in writing to the City Commissioner of Investigation any solicitation of money, goods, requests for future employment or other benefits or thing of value, by or on behalf of any employee of the City or other person or entity for any purpose that may be related to the procurement or obtaining of this Agreement by the Contractor, or affecting the performance of this Agreement.

Section 5.08 Confidentiality

A. The Contractor agrees to hold confidential, both during and after the completion or termination of this Agreement, all of the reports, information, or data, furnished to, or prepared, assembled or used by, the Contractor under this Agreement. The Contractor agrees to maintain the confidentiality of such reports, information, or data by using a reasonable degree of care, and using at least the same degree of care that the Contractor uses to preserve the confidentiality of its own confidential information. The Contractor agrees that such reports, information, or data shall not be made available to any person or entity without the prior written approval of the Department. The obligation under this Section 5.08 to hold reports, information or data confidential shall not apply where the Contractor is legally required to disclose such reports, information or data, by virtue of a subpoena, court order or otherwise ("disclosure demand"), provided that the Contractor complies with the following: (1) the Contractor shall provide advance notice to the Commissioner, in writing or by e-mail, that it received a disclosure demand for to disclose such reports, information or data and (2) if requested by the Department, the Contractor shall not disclose such reports, information, or data until the City has exhausted its legal rights, if any, to prevent disclosure of all or a portion of such reports, information or data. The previous sentence shall not apply if the Contractor is prohibited by law from disclosing to the Department the disclosure demand for such reports, information or data.

B. The Contractor shall provide notice to the Department within three days of the discovery by the Contractor of any breach of security, as defined in Admin. Code § 10-501(b), of any data, encrypted or otherwise, in use by the Contractor that contains social security numbers or other personal identifying information as defined in Admin. Code § 10-501 ("Personal Identifying Information"), where such breach of security arises out of the acts or omissions of the Contractor or its employees, subcontractors, or agents. Upon the discovery of such security breach, the Contractor shall take reasonable steps to remediate the cause or causes of such breach, and shall provide notice to the Department of such steps. In the event of such breach of security, without limiting any other right of the City, the City shall have the right to withhold further payments under this Agreement for the purpose of set-off in sufficient sums to cover the costs of notifications and/or other actions mandated by any Law, or administrative or judicial order, to address the breach, and including any fines or disallowances imposed by the State or federal government as a result of the disclosure. The City shall also have the right to withhold further payments hereunder for the purpose of set-off in sufficient sums to cover the costs of credit monitoring services for the victims of such a breach of security by a national credit reporting agency, and/or any other commercially reasonable preventive measure. The Department shall provide the Contractor with written notice and an opportunity to comment on such measures prior to implementation. Alternatively, at the City's discretion, or if monies remaining to be earned or paid under this Agreement are insufficient to cover the costs detailed above, the Contractor shall pay directly for the costs, detailed above, if any.

C. The Contractor shall restrict access to confidential information to persons who have a legitimate work related purpose to access such information. The Contractor agrees that it will instruct its officers, employees, and agents to maintain the confidentiality of any and all information required to be kept confidential by this Agreement.

D. The Contractor, and its officers, employees, and agents shall notify the Department, at any time either during or after completion or termination of this Agreement, of any intended statement to the press or any intended issuing of any material for publication in any media of communication (print, news, television, radio, Internet, etc.) regarding the services provided or the data collected pursuant to this Agreement at least 24 hours prior to any statement to the press or at least five business days prior to the submission of the material for publication, or such shorter periods as are reasonable under the circumstances. The Contractor may not issue any statement or submit any material for publication that includes confidential information as prohibited by this Section 5.08.

E. At the request of the Department, the Contractor shall return to the Department any and all confidential information in the possession of the Contractor or its subcontractors. If the Contractor or its subcontractors are legally required to retain any confidential information, the Contractor shall notify the Department in writing and set forth the confidential information that it intends to retain and the reasons why it is legally required to retain such information. The Contractor shall confer with the Department, in good faith, regarding any issues that arise from the Contractor retaining such confidential information. If the Department does not request such information or the Law does not require otherwise, such information shall be maintained in accordance with the requirements set forth in Section 5.02.

F. A breach of this Section 5.08 shall constitute a material breach of this Agreement for which the Department may terminate this Agreement pursuant to Article 10. The Department reserves any and all other rights and remedies in the event of unauthorized disclosure.

ARTICLE 6 - COPYRIGHTS, PATENTS, INVENTIONS, AND ANTITRUST

Section 6.01 Copyrights and Ownership of Work Product

A. Any reports, documents, data, photographs, deliverables, and/or other materials produced pursuant to this Agreement, and any and all drafts and/or other preliminary materials in any format related to such items produced pursuant to this Agreement, shall upon their creation become the exclusive property of the City.

B. Any reports, documents, data, photographs, deliverables, and/or other materials provided pursuant to this Agreement ("Copyrightable Materials") shall be considered "work-made-for-hire" within the meaning and purview of Section 101 of the United States Copyright Act, 17 U.S.C. § 101, and the City shall be the copyright owner thereof and of all aspects, elements, and components thereof in which copyright protection might exist. To the extent that the Copyrightable Materials do not qualify as "work-made-for-hire," the Contractor hereby irrevocably transfers, assigns and conveys exclusive copyright ownership in and to the Copyrightable Materials to the City, free and clear of any liens, claims, or other encumbrances. The Contractor shall retain no copyright or intellectual property interest in the Copyrightable Materials. The Copyrightable Materials shall be used by the Contractor for no purpose other than in the performance of this Agreement without the prior written permission of the City. The

Department may grant the Contractor a license to use the Copyrightable Materials on such terms as determined by the Department and set forth in the license.

C.   The Contractor acknowledges that the City may, in its sole discretion, register copyright in the Copyrightable Materials with the United States Copyright Office or any other government agency authorized to grant copyright registrations. The Contractor shall fully cooperate in this effort, and agrees to provide any and all documentation necessary to accomplish this.

D.   The Contractor represents and warrants that the Copyrightable Materials: (i) are wholly original material not published elsewhere (except for material that is in the public domain); (ii) do not violate any copyright Law; (iii) do not constitute defamation or invasion of the right of privacy or publicity; and (iv) are not an infringement, of any kind, of the rights of any third party. To the extent that the Copyrightable Materials incorporate any non-original material, the Contractor has obtained all necessary permissions and clearances, in writing, for the use of such non-original material under this Agreement, copies of which shall be provided to the City upon execution of this Agreement.

E.   If the services under this Agreement are supported by a federal grant of funds, the federal and State government reserves a royalty-free, non-exclusive irrevocable license to reproduce, publish, or otherwise use and to authorize others to use, for federal or State government purposes, the copyright in any Copyrightable Materials developed under this Agreement.

F.   If the Contractor publishes a work dealing with any aspect of performance under this Agreement, or with the results of such performance, the City shall have a royalty-free, non-exclusive irrevocable license to reproduce, publish, or otherwise use such work for City governmental purposes.

Section 6.02 Patents and Inventions

The Contractor shall promptly and fully report to the Department any discovery or invention arising out of or developed in the course of performance of this Agreement. If the services under this Agreement are supported by a federal grant of funds, the Contractor shall promptly and fully report to the federal government for the federal government to make a determination as to whether patent protection on such invention shall be sought and how the rights in the invention or discovery, including rights under any patent issued thereon, shall be disposed of and administered in order to protect the public interest.

Section 6.03 Pre-existing Rights

In no case shall Sections 6.01 and 6.02 apply to, or prevent the Contractor from asserting or protecting its rights in any discovery, invention, report, document, data, photograph, deliverable, or other material in connection with or produced pursuant to this Agreement that existed prior to or was developed or discovered independently from the activities directly related to this Agreement.

Section 6.04 Antitrust

The Contractor hereby assigns, sells, and transfers to the City all right, title, and interest in and to any claims and causes of action arising under the antitrust laws of the State or of the United States relating to the particular goods or services procured by the City under this Agreement.

ARTICLE 7 - INSURANCE

Section 7.01 Agreement to Insure

The Contractor shall maintain the following types of insurance if and as indicated in Schedule A (with the minimum limits and special conditions specified in Schedule A) throughout the term of this Agreement, including any applicable guaranty period. All insurance shall meet the requirements set forth in this Article 7. Wherever this Article 7 requires that insurance coverage be "at least as broad" as a specified form (including all ISO forms), there is no obligation that the form itself be used, provided that the Contractor can demonstrate that the alternative form or endorsement contained in its policy provides coverage at least as broad as the specified form.

Section 7.02 Workers' Compensation, Disability Benefits, and Employers' Liability Insurance

A.   The Contractor shall maintain workers' compensation insurance, employers' liability insurance, and disability benefits insurance, in accordance with Law on behalf of, or in regard to, all employees providing services under this Agreement

B.   Within 10 Days of award of this Agreement or as otherwise specified by the Department, and as required by N.Y. Workers' Compensation Law §§ 57 and 220(8), the Contractor shall submit proof of Contractor's workers' compensation insurance and disability benefits insurance (or proof of a legal exemption) to the Department in a form acceptable to the New York State Workers' Compensation Board. ACORD forms are not acceptable proof of such insurance. The following forms are acceptable:

1.   Form C-105.2, *Certificate of Workers' Compensation Insurance*;

2.   Form U-26.3, *State Insurance Fund Certificate of Workers' Compensation Insurance*;

3.   Form SI-12, *Certificate of Workers' Compensation Self-Insurance*;
4.   Form GSI-105.2, *Certificate of Participation in Worker's Compensation Group Self-Insurance*;

5.   Form DB-120.1, *Certificate of Disability Benefits Insurance*;

6.   Form DB-155, *Certificate of Disability Benefits Self-Insurance*;

7.   Form CE-200 – *Affidavit of Exemption*;

8.   Other forms approved by the New York State Workers' Compensation Board; or

9.   Other proof of insurance in a form acceptable to the City.

Section 7.03 Other Insurance

A.   *Commercial General Liability Insurance.* The Contractor shall maintain commercial general liability insurance in the amounts specified in Schedule A covering operations under this Agreement. Coverage must be at least as broad as the coverage provided by the most recently issued ISO Form CG 00 01, primary and non-contributory, and "occurrence" based rather than "claims-made." Such coverage shall list the City, together with its officials and employees, and any other entity that may be listed on Schedule A as an additional insured with coverage at least as broad as the most recently issued ISO Form CG 20 10 or CG 20 26 and, if construction is performed as part of the services, ISO Form CG 20 37.

B.   *Commercial Automobile Liability Insurance.* If indicated in Schedule A and/or if vehicles are used in the provision of services under this Agreement, the Contractor shall maintain commercial automobile liability insurance for liability arising out of ownership, maintenance or use of any owned, non-owned, or hired vehicles to be used in connection with this Agreement. Coverage shall be at least as broad as the most recently issued ISO Form CA 00 01. If vehicles are used for transporting hazardous materials, the commercial automobile liability insurance shall be endorsed to provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48) as well as proof of MCS-90.

C.   *Professional Liability Insurance.*

1.   If indicated in Schedule A, the Contractor shall maintain and submit evidence of professional liability insurance or errors and omissions insurance appropriate to the type(s) of such services to be provided under this Agreement. The policy or policies shall cover the liability assumed by the Contractor under this Agreement arising out of the negligent performance of professional services or caused by an error, omission, or negligent act of the Contractor or anyone employed by the Contractor.

2.   All subcontractors of the Contractor providing professional services under this Agreement for which professional liability insurance or errors and omissions insurance is reasonably commercially available shall also maintain such insurance in the amount specified in Schedule A. At the time of the request for subcontractor approval, the Contractor shall provide to the Department, evidence of such professional liability insurance on a form acceptable to the Department.

3. Claims-made policies will be accepted for professional liability insurance. All such policies shall have an extended reporting period option or automatic coverage of not less than two years. If available as an option, the Contractor shall purchase extended reporting period coverage effective on cancellation or termination of such insurance unless a new policy is secured with a retroactive date, including at least the last policy year.

D. *Crime Insurance.* If indicated in Schedule A, the Contractor shall maintain crime insurance during the term of the Agreement in the minimum amounts listed in Schedule A. Such insurance shall include coverage, without limitation, for any and all acts of employee theft including employee theft of client property, forgery or alteration, inside the premises (theft of money and securities), inside the premises (robbery or safe burglary of other property), outside the premises, computer fraud, funds transfer fraud, and money orders and counterfeit money. The policy shall name the Contractor as named insured and shall list the City as loss payee as its interests may appear.

E. *Cyber Liability Insurance.* If indicated in Schedule A, the Contractor shall maintain cyber liability insurance covering losses arising from operations under this Agreement in the amounts listed in Schedule A. The City shall approve the policy (including exclusions therein), coverage amounts, deductibles or self-insured retentions, and premiums, as well as the types of losses covered, which may include but not be limited to: notification costs, security monitoring costs, losses resulting from identity theft, and other injury to third parties. If additional insured status is commercially available under the Contractor's cyber liability insurance, the insurance shall cover the City, together with its respective officials and employees, as additional insured.

F. *Other Insurance.* The Contractor shall provide such other types of insurance in the amounts specified in Schedule A.

Section 7.04 General Requirements for Insurance Coverage and Policies

A. Unless otherwise stated, all insurance required by Section 7.03 of this Agreement must:

1. be provided by companies that may lawfully issue such policies;

2. have an A.M. Best rating of at least A- / VII, a Standard & Poor's rating of at least A, a Moody's Investors Service rating of at least A3, a Fitch Ratings rating of at least A- or a similar rating by any other nationally recognized statistical rating organization acceptable to the New York City Law Department unless prior written approval is obtained from the New York City Law Department; and

3. be primary (and non-contributing) to any insurance or self-insurance maintained by the City (not applicable to professional liability insurance/errors and omissions insurance) and any other entity listed as an additional insured in Schedule A.

B.   The Contractor shall be solely responsible for the payment of all premiums for all required insurance policies and all deductibles or self-insured retentions to which such policies are subject, whether or not the City is an insured under the policy.

C.   There shall be no self-insurance program, including a self-insurance retention, exceeding $10,000.00, with regard to any insurance required under Section 7.03 unless approved in writing by the Commissioner. Any such self-insurance program shall provide the City and any other additional insured listed on Schedule A with all rights that would be provided by traditional insurance required under this Article 7, including but not limited to the defense obligations that insurers are required to undertake in liability policies.

D.   The limits of coverage for all types of insurance for the City, including its officials and employees, and any other additional insured listed on Schedule A that must be provided to such additional insured(s) shall be the greater of (i) the minimum limits set forth in Schedule A or (ii) the limits provided to the Contractor as named insured under all primary, excess, and umbrella policies of that type of coverage.

Section 7.05 Proof of Insurance

A.   For each policy required under Section 7.03 and Schedule A of this Agreement, the Contractor shall file proof of insurance and, where applicable, proof that the City, including its officials and employees, is an additional insured with the Department within ten Days of award of this Agreement. The following proof is acceptable:

1.   A certificate of insurance accompanied by a completed certification of insurance broker or agent (included in Schedule A of this Agreement) and any endorsements by which the City, including its officials and employees, have been made an additional insured; or

2.   A copy of the insurance policy, including declarations and endorsements, certified by an authorized representative of the issuing insurance carrier.

B.   Proof of insurance confirming renewals of insurance required under Section 7.03 must be submitted to the Department prior to the expiration date of the coverage. Such proof must meet the requirements of Section 7.05(A).

C.   The Contractor shall provide the City with a copy of any policy required under this Article 7 upon the demand for such policy by the Commissioner or the New York City Law Department.

D.   Acceptance by the Commissioner of a certificate or a policy does not excuse the Contractor from maintaining policies consistent with all provisions of this Article 7 (and ensuring that subcontractors maintain such policies) or from any liability arising from its failure to do so.

E.   If the Contractor receives notice, from an insurance company or other person, that any insurance policy required under this Article 7 shall expire or be cancelled or terminated for any reason, the Contractor shall immediately forward a copy of such notice to both the address referred to in Section 14.04 and Schedule A and to the New York City Comptroller, Attn: Office of Contract Administration, Municipal Building, One Centre Street, Room 1005, New York, New York 10007.

Section 7.06 Miscellaneous

A.   Whenever notice of loss, damage, occurrence, accident, claim, or suit is required under a policy required by Section 7.03 and Schedule A, the Contractor shall provide the insurer with timely notice thereof on behalf of the City. Such notice shall be given even where the Contractor may not be covered under such policy if this Agreement requires that the City be an additional insured (for example, where one of Contractor's employees was injured). Such notice shall expressly specify that "this notice is being given on behalf of the City of New York, including its officials and employees, as additional insured" (such notice shall also include the name of any other entity listed as an additional insured on Schedule A) and contain the following information to the extent known: the number of the insurance policy; the name of the named insured; the date and location of the damage, occurrence, or accident; the identity of the persons or things injured, damaged, or lost; and the title of the claim or suit, if applicable. The Contractor shall simultaneously send a copy of such notice to the City of New York c/o Insurance Claims Specialist, Affirmative Litigation Division, New York City Law Department, 100 Church Street, New York, New York 10007. If the Contractor fails to comply with the requirements of this paragraph, the Contractor shall indemnify the City, together with its officials and employees, and any other entity listed as an additional insured on Schedule A for all losses, judgments, settlements and expenses, including reasonable attorneys' fees, arising from an insurer's disclaimer of coverage citing late notice by or on behalf of the City together with its officials and employees, and any other entity listed as an additional insured on Schedule A.

B.   The Contractor's failure to maintain any of the insurance required by this Article 7 and Schedule A shall constitute a material breach of this Agreement. Such breach shall not be waived or otherwise excused by any action or inaction by the City at any time.

C.   Insurance coverage in the minimum amounts required in this Article 7 shall not relieve the Contractor or its subcontractors of any liability under this Agreement, nor shall it preclude the City from exercising any rights or taking such other actions as are available to it under any other provisions of this Agreement or Law.

D.   With respect to insurance required by Section 7.03 and Schedule A (but not including professional liability/errors and omissions insurance), the Contractor waives all rights against the City, including its officials and employees, and any other entity listed as an additional insured on Schedule A for any damages or losses that are covered under any insurance required under this Article 7 (whether or not such insurance is actually procured or claims are paid thereunder) or any other insurance applicable to the operations of the Contractor and/or its subcontractors in the performance of this Agreement.

E.   In the event the Contractor requires any subcontractor to maintain insurance with regard to any operations under this Agreement and requires such subcontractor to list the Contractor as an additional insured under such insurance, the Contractor shall ensure that such entity also list the City, including its officials and employees, and any other entity listed as an additional insured on Schedule A as an additional insured. With respect to commercial general liability insurance, such coverage must be at least as broad as the most recently issued ISO form CG 20 26.

ARTICLE 8 - PROTECTION OF PERSONS AND PROPERTY AND INDEMNIFICATION

Section 8.01 Reasonable Precautions

The Contractor shall take all reasonable precautions to protect all persons and the property of the City and of others from injury, damage, or loss resulting from the Contractor's and/or its subcontractors' operations under this Agreement.

Section 8.02 Protection of City Property

The Contractor assumes the risk of, and shall be responsible for, any loss or damage to City property, including property and equipment leased by the City, used in the performance of this Agreement, where such loss or damage is caused by negligence, any tortious act, or failure to comply with the provisions of this Agreement or of Law by the Contractor, its officers, employees, agents or subcontractors.

Section 8.03 Indemnification

To the fullest extent permitted by Law, the Contractor shall defend, indemnify, and hold harmless the City, including its officials and employees, against any and all claims (even if the allegations of the claim are without merit), judgments for damages on account of any injuries or death to any person or damage to any property, and costs and expenses to which the City or its officials or employees, may be subject to or which they may suffer or incur allegedly arising out of any of the operations of the Contractor and/or its subcontractors under this Agreement to the extent resulting from any negligent act of commission or omission, any intentional tortious act, and/or the failure to comply with Law or any of the requirements of this Agreement. Insofar as the facts or Law relating to any of the foregoing would preclude the City or its officials or employees from being completely indemnified by the Contractor, the City and its officials and employees shall be partially indemnified by the Contractor to the fullest extent permitted by Law.

Section 8.04 Infringement Indemnification

To the fullest extent permitted by Law, the Contractor shall defend, indemnify, and hold harmless the City, including its officials and employees, against any and all claims (even if the allegations of the claim are without merit), judgments for damages, and costs and expenses to

which the City or its officials or employees, may be subject to or which they may suffer or incur allegedly arising out of any infringement, violation, or unauthorized use of any copyright, trade secret, trademark or patent or any other property or personal right of any third party by the Contractor and/or its employees, agents, or subcontractors in the performance of this Agreement. To the fullest extent permitted by Law, the Contractor shall defend, indemnify, and hold harmless the City and its officials and employees regardless of whether or not the alleged infringement, violation, or unauthorized use arises out of compliance with the Agreement's scope of services/scope of work. Insofar as the facts or Law relating to any of the foregoing would preclude the City and its officials and employees from being completely indemnified by the Contractor, the City and its officials and employees shall be partially indemnified by the Contractor to the fullest extent permitted by Law.

Section 8.05 Indemnification Obligations Not Limited By Insurance Obligation

The Contractor's obligation to indemnify, defend and hold harmless the City and its officials and employees shall neither be (i) limited in any way by the Contractor's obligations to obtain and maintain insurance under this Agreement, nor (ii) adversely affected by any failure on the part of the City or its officials or employees to avail themselves of the benefits of such insurance.

Section 8.06 Actions By or Against Third Parties

A.   If any claim is made or any action brought in any way relating to Agreement other than an action between the City and the Contractor, the Contractor shall diligently render to the City without additional compensation all assistance that the City may reasonably require of the Contractor.

B.   The Contractor shall report to the Department in writing within five business days of the initiation by or against the Contractor of any legal action or proceeding relating to this Agreement.

Section 8.07 Withholding of Payments

A.   If any claim is made or any action is brought against the City for which the Contractor may be required to indemnify the City pursuant to this Agreement, the City shall have the right to withhold further payments under this Agreement for the purpose of set-off in sufficient sums to cover the said claim or action.

B.   If any City property is lost or damaged as set forth in Section 8.02, except for normal wear and tear, the City shall have the right to withhold payments under this Agreement for the purpose of set-off in sufficient sums to cover such loss or damage.

C.   The City shall not, however, impose a set-off in the event that an insurance company that provided insurance pursuant to Section 7.03 above has accepted the City's tender of the claim or action without a reservation of rights.

D.   The Department may, at its option, withhold for purposes of set-off any monies due to the Contractor under this Agreement up to the amount of any disallowances or questioned costs resulting from any audits of the Contractor or to the amount of any overpayment to the Contractor with regard to this Agreement.

E.   The rights and remedies of the City provided for in this Section 8.07 are not exclusive and are in addition to any other rights and remedies provided by Law or this Agreement.

Section 8.08 No Third Party Rights

The provisions of this Agreement shall not be deemed to create any right of action in favor of third parties against the Contractor or the City or their respective officials and employees.

ARTICLE 9 - CONTRACT CHANGES

Section 9.01 Contract Changes

Changes to this Agreement may be made only as duly authorized by the ACCO or his or her designee and in accordance with the PPB Rules. Any amendment or change to this Agreement shall not be valid unless made in writing and signed by authorized representatives of both parties. The Contractor deviates from the requirements of this Agreement without a duly approved and executed change order document or written contract modification or amendment at its own risk.

Section 9.02 Changes Through Fault of Contractor

If any change is required in the data, documents, deliverables, or other services to be provided under this Agreement because of negligence or error of the Contractor, no additional compensation shall be paid to the Contractor for making such change, and the Contractor is obligated to make such change without additional compensation.

ARTICLE 10 - TERMINATION, DEFAULT, REDUCTIONS IN FUNDING, AND LIQUIDATED DAMAGES

Section 10.01 Termination by the City Without Cause

A.   The City shall have the right to terminate this Agreement, in whole or in part, without cause, in accordance with the provisions of Section 10.05.

B.   In its sole discretion, the City shall have the right to terminate this Agreement, in whole or in part, upon the request of the Contractor to withdraw from the Contract, in accordance with the provisions of Section 10.05.

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C.   If the City terminates this Agreement pursuant to this Section 10.01, the following provisions apply. The City shall not incur or pay any further obligation pursuant to this Agreement beyond the termination date set by the City pursuant to Section 10.05. The City shall pay for services provided in accordance with this Agreement prior to the termination date. In addition, any obligation necessarily incurred by the Contractor on account of this Agreement prior to receipt of notice of termination and falling due after the termination date shall be paid by the City in accordance with the terms of this Agreement. In no event shall such obligation be construed as including any lease or other occupancy agreement, oral or written, entered into between the Contractor and its landlord.

Section 10.02 Reductions in Federal, State, and/or City Funding

A.   This Agreement is funded in whole or in part by funds secured from the federal, State and/or City governments. Should there be a reduction or discontinuance of such funds by action of the federal, State and/or City governments, the City shall have, in its sole discretion, the right to terminate this Agreement in whole or in part, or to reduce the funding and/or level of services of this Agreement caused by such action by the federal, State and/or City governments, including, in the case of the reduction option, but not limited to, the reduction or elimination of programs, services or service components; the reduction or elimination of contract-reimbursable staff or staff-hours, and corresponding reductions in the budget of this Agreement and in the total amount payable under this Agreement. Any reduction in funds pursuant to this Section 10.02(A) shall be accompanied by an appropriate reduction in the services performed under this Agreement.

B.   In the case of the reduction option referred to in Section 10.02(A), above, any such reduction shall be effective as of the date set forth in a written notice thereof to the Contractor, which shall be not less than 30 Days from the date of such notice. Prior to sending such notice of reduction, the Department shall advise the Contractor that such option is being exercised and afford the Contractor an opportunity to make within seven Days any suggestion(s) it may have as to which program(s), service(s), service component(s), staff or staff-hours might be reduced or eliminated, provided, however, that the Department shall not be bound to utilize any of the Contractor's suggestions and that the Department shall have sole discretion as to how to effectuate the reductions.

C.   If the City reduces funding pursuant to this Section 10.02, the following provisions apply. The City shall pay for services provided in accordance with this Agreement prior to the reduction date. In addition, any obligation necessarily incurred by the Contractor on account of this Agreement prior to receipt of notice of reduction and falling due after the reduction date shall be paid by the City in accordance with the terms of this Agreement. In no event shall such obligation be construed as including any lease or other occupancy agreement, oral or written, entered into between the Contractor and its landlord.

D.   To the extent that the reduction in public funds is a result of the State determining that the Contractor may receive medical assistance funds pursuant to title eleven of article five of the Social Services Law to fund the services contained within the scope of a program under this Agreement, then the notice and effective date provisions of this Section 10.02 shall not apply,

and the Department may reduce such public funds authorized under this Agreement by informing the Contractor of the amount of the reduction and revising attachments to this Agreement as appropriate.

Section 10.03 Contractor Default

A.　　The City shall have the right to declare the Contractor in default:

　　1.　　Upon a breach by the Contractor of a material term or condition of this Agreement, including unsatisfactory performance of the services;

　　2.　　Upon insolvency or the commencement of any proceeding by or against the Contractor, either voluntarily or involuntarily, under the Bankruptcy Code or relating to the insolvency, receivership, liquidation, or composition of the Contractor for the benefit of creditors;

　　3.　　If the Contractor refuses or fails to proceed with the services under the Agreement when and as directed by the Commissioner;

　　4.　　If the Contractor or any of its officers, directors, partners, five percent or greater shareholders, principals, or other employee or person substantially involved in its activities are indicted or convicted after execution of the Agreement under any state or federal law of any of the following:

　　　　a.　a criminal offense incident to obtaining or attempting to obtain or performing a public or private contract;

　　　　b.　fraud, embezzlement, theft, bribery, forgery, falsification, or destruction of records, or receiving stolen property;

　　　　c.　a criminal violation of any state or federal antitrust law;

　　　　d.　violation of the Racketeer Influence and Corrupt Organization Act, 18 U.S.C. §§ 1961 *et seq*., or the Mail Fraud Act, 18 U.S.C. §§ 1341 *et seq*., for acts in connection with the submission of bids or proposals for a public or private contract;

　　　　e.　conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any statute described in subparagraph (d) above; or

　　　　f.　an offense indicating a lack of business integrity that seriously and directly affects responsibility as a City vendor.

　　5.　　If the Contractor or any of its officers, directors, partners, five percent or greater shareholders, principals, or other employee or person substantially involved in its activities are subject to a judgment of civil liability under any state or federal antitrust

law for acts or omissions in connection with the submission of bids or proposals for a public or private contract; or

6.　　　If the Contractor or any of its officers, directors, partners, five percent or greater shareholders, principals, or other employee or person substantially involved in its activities makes or causes to be made any false, deceptive, or fraudulent material statement, or fail to make a required material statement in any bid, proposal, or application for City or other government work.

B.　　　The right to declare the Contractor in default shall be exercised by sending the Contractor a written notice of the conditions of default, signed by the Commissioner, setting forth the ground or grounds upon which such default is declared ("Notice to Cure"). The Contractor shall have ten Days from receipt of the Notice to Cure or any longer period that is set forth in the Notice to Cure to cure the default. The Commissioner may temporarily suspend services under the Agreement pending the outcome of the default proceedings pursuant to this Section 10.03.

C.　　　If the conditions set forth in the Notice to Cure are not cured within the period set forth in the Notice to Cure, the Commissioner may declare the Contractor in default pursuant to this Section 10.03. Before the Commissioner may exercise his or her right to declare the Contractor in default, the Commissioner shall give the Contractor an opportunity to be heard upon not less than five business days' notice. The Commissioner may, in his or her discretion, provide for such opportunity to be in writing or in person. Such opportunity to be heard shall not occur prior to the end of the cure period but notice of such opportunity to be heard may be given prior to the end of the cure period and may be given contemporaneously with the Notice to Cure.

D.　　　After the opportunity to be heard, the Commissioner may terminate the Agreement, in whole or in part, upon finding the Contractor in default pursuant to this Section 10.03, in accordance with the provisions of Section 10.05.

E.　　　The Commissioner, after declaring the Contractor in default, may have the services under the Agreement completed by such means and in such manner, by contract with or without public letting, or otherwise, as he or she may deem advisable in accordance with applicable PPB Rules. After such completion, the Commissioner shall certify the expense incurred in such completion, which shall include the cost of re-letting. Should the expense of such completion, as certified by the Commissioner, exceed the total sum which would have been payable under the Agreement if it had been completed by the Contractor, any excess shall be promptly paid by the Contractor upon demand by the City. The excess expense of such completion, including any and all related and incidental costs, as so certified by the Commissioner, and any liquidated damages assessed against the Contractor, may be charged against and deducted out of monies earned by the Contractor.

Section 10.04 Force Majeure

A.　　　For purposes of this Agreement, a force majeure event is an act or event beyond the control and without any fault or negligence of the Contractor ("Force Majeure Event"). Such

events may include, but are not limited to, fire, flood, earthquake, storm or other natural disaster, civil commotion, war, terrorism, riot, and labor disputes not brought about by any act or omission of the Contractor.

B.　　In the event the Contractor cannot comply with the terms of the Agreement (including any failure by the Contractor to make progress in the performance of the services) because of a Force Majeure Event, then the Contractor may ask the Commissioner to excuse the nonperformance and/or terminate the Agreement. If the Commissioner, in his or her reasonable discretion, determines that the Contractor cannot comply with the terms of the Agreement because of a Force Majeure Event, then the Commissioner shall excuse the nonperformance and may terminate the Agreement. Such a termination shall be deemed to be without cause.

F.　　If the City terminates the Agreement pursuant to this Section 10.04, the following provisions apply. The City shall not incur or pay any further obligation pursuant to this Agreement beyond the termination date. The City shall pay for services provided in accordance with this Agreement prior to the termination date. Any obligation necessarily incurred by the Contractor on account of this Agreement prior to receipt of notice of termination and falling due after the termination date shall be paid by the City in accordance with the terms of this Agreement. In no event shall such obligation be construed as including any lease or other occupancy agreement, oral or written, entered into between the Contractor and its landlord.

Section 10.05 Procedures for Termination

A.　　The Department and/or the City shall give the Contractor written notice of any termination of this Agreement. Such notice shall specify the applicable provision(s) under which the Agreement is terminated and the effective date of the termination. Except as otherwise provided in this Agreement, the notice shall comply with the provisions of this Section 10.05 and Section 14.04. For termination without cause, the effective date of the termination shall not be less than ten Days from the date the notice is personally delivered, or 15 Days from the date the notice is either sent by certified mail, return receipt requested, delivered by overnight or same day courier service in a properly addressed envelope with confirmation, or sent by email and, unless the receipt of the email is acknowledged by the recipient by email, deposited in a post office box regularly maintained by the United States Postal Service in a properly addressed postage pre-paid envelope. In the case of termination for default, the effective date of the termination shall be as set forth above for a termination without cause or such earlier date as the Commissioner may determine. If the City terminates the Agreement in part, the Contractor shall continue the performance of the Agreement to the extent not terminated.

B.　　Upon termination or expiration of this Agreement, the Contractor shall comply with the City close-out procedures, including but not limited to:

1.　　Accounting for and refunding to the Department, within 45 Days, any unexpended funds which have been advanced to the Contractor pursuant to this Agreement;

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2.   Furnishing within 45 Days an inventory to the Department of all equipment, appurtenances and property purchased through or provided under this Agreement and carrying out any Department or City directive concerning the disposition of such equipment, appurtenances and property;

3.   Turning over to the Department or its designees all books, records, documents and material specifically relating to this Agreement that the Department has requested be turned over;

4.   Submitting to the Department, within 90 Days, a final statement and report relating to the Agreement. The report shall be made by a certified public accountant or a licensed public accountant, unless the Department waives, in writing, the requirement that a certified public accountant or licensed public accountant make such report; and

5.   Providing reasonable assistance to the Department in the transition, if any, to a new contractor.

Section 10.06 Miscellaneous Provisions

A.   The Commissioner, in addition to any other powers set forth in this Agreement or by operation of Law, may suspend, in whole or in part, any part of the services to be provided under this Agreement whenever in his or her judgment such suspension is required in the best interest of the City. If the Commissioner suspends this Agreement pursuant to this Section 10.06, the City shall not incur or pay any further obligation pursuant to this Agreement beyond the suspension date until such suspension is lifted. The City shall pay for services provided in accordance with this Agreement prior to the suspension date. In addition, any obligation necessarily incurred by the Contractor on account of this Agreement prior to receipt of notice of suspension and falling due during the suspension period shall be paid by the City in accordance with the terms of this Agreement.

B.   Notwithstanding any other provisions of this Agreement, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of the Contractor's breach of the Agreement, and the City may withhold payments to the Contractor for the purpose of set-off in the amount of damages due to the City from the Contractor.

C.   The rights and remedies of the City provided in this Article 10 shall not be exclusive and are in addition to all other rights and remedies provided by Law or under this Agreement.

Section 10.07 Liquidated Damages

If Schedule A or any other part of this Agreement includes liquidated damages for failure to comply with a provision of this Agreement, the sum indicated is fixed and agreed as the liquidated damages that the City will suffer by reason of such noncompliance and not as a penalty.

ARTICLE 11 - PROMPT PAYMENT AND ELECTRONIC FUNDS TRANSFER

Section 11.01 Prompt Payment

A.   The prompt payment provisions of PPB Rule § 4-06 are applicable to payments made under this Agreement. With some exceptions, the provisions generally require the payment to the Contractor of interest on payments made after the required payment date, as set forth in the PPB Rules.

B.   The Contractor shall submit a proper invoice to receive payment, except where the Agreement provides that the Contractor will be paid at predetermined intervals without having to submit an invoice for each scheduled payment.

C.   Determination of interest due will be made in accordance with the PPB Rules and the applicable rate of interest shall be the rate in effect at the time of payment.

Section 11.02 Electronic Funds Transfer

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

B.   The Agency Head may waive the application of the requirements of this Section 11.02 to payments on contracts entered into pursuant to Charter § 315. In addition, the commissioner of the Department of Finance and the Comptroller may jointly issue standards pursuant to which the Department may waive the requirements of this Section 11.02 for payments in the following circumstances: (i) for individuals or classes of individuals for whom compliance imposes a hardship; (ii) for classifications or types of checks; or (iii) in other circumstances as may be necessary in the best interest of the City.

C.   This Section 11.02 is applicable to contracts valued at $25,000.00 and above.

ARTICLE 12 - CLAIMS

Section 12.01 Choice of Law

This Agreement shall be deemed to be executed in the City and State of New York, regardless of the domicile of the Contractor, and shall be governed by and construed in accordance with the Laws of the State of New York (notwithstanding New York choice of law or conflict of law principles) and the Laws of the United States, where applicable.

Section 12.02 Jurisdiction and Venue

Subject to Section 12.03, the parties agree that any and all claims asserted by or against the City arising under or related to this Agreement shall solely be heard and determined either in the courts of the United States located in the City or in the courts of the State located in the City and County of New York. The parties shall consent to the dismissal and/or transfer of any claims asserted in any other venue or forum to the proper venue or forum. If the Contractor initiates any action in breach of this Section 12.02, the Contractor shall be responsible for and shall promptly reimburse the City for any attorneys' fees incurred by the City in removing the action to a proper court consistent with this Section 12.02.

Section 12.03 Resolution of Disputes

A.   Except as provided in Subparagraphs (A)(1) and (A)(2) below, all disputes between the City and the Contractor that arise under, or by virtue of, this Agreement shall be finally resolved in accordance with the provisions of this Section 12.03 and PPB Rule § 4-09. This procedure shall be the exclusive means of resolving any such disputes.

     1.   This Section 12.03 shall not apply to disputes concerning matters dealt with in other sections of the PPB Rules or to disputes involving patents, copyrights, trademarks, or trade secrets (as interpreted by the courts of New York State) relating to proprietary rights in computer software, or to termination other than for cause.

     2.   For construction and construction-related services this Section 12.03 shall apply only to disputes about the scope of work delineated by the Agreement, the interpretation of Agreement documents, the amount to be paid for extra work or disputed work performed in connection with the Agreement, the conformity of the Contractor's work to the Agreement, and the acceptability and quality of the Contractor's work; such disputes arise when the City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head makes a determination with which the Contractor disagrees. For construction, this Section 12.03 shall not apply to termination of the Agreement for cause or other than for cause.

B.   All determinations required by this Section 12.03 shall be clearly stated, with a reasoned explanation for the determination based on the information and evidence presented to the party making the determination. Failure to make such determination within the time required

by this Section 12.03 shall be deemed a non-determination without prejudice that will allow application to the next level.

C. During such time as any dispute is being presented, heard, and considered pursuant to this Section 12.03, the Agreement terms shall remain in full force and effect and, unless otherwise directed by the ACCO or Engineer, the Contractor shall continue to perform work in accordance with the Agreement and as directed by the ACCO or City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head. Failure of the Contractor to continue the work as directed shall constitute a waiver by the Contractor of any and all claims being presented pursuant to this Section 12.03 and a material breach of contract.

D. Presentation of Dispute to Agency Head.

1. Notice of Dispute and Agency Response. The Contractor shall present its dispute in writing ("Notice of Dispute") to the Agency Head within the time specified herein, or, if no time is specified, within 30 Days of receiving written notice of the determination or action that is the subject of the dispute. This notice requirement shall not be read to replace any other notice requirements contained in the Agreement. The Notice of Dispute shall include all the facts, evidence, documents, or other basis upon which the Contractor relies in support of its position, as well as a detailed computation demonstrating how any amount of money claimed by the Contractor in the dispute was arrived at. Within 30 Days after receipt of the complete Notice of Dispute, the ACCO or, in the case of construction or construction-related services, the City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head, shall submit to the Agency Head all materials he or she deems pertinent to the dispute. Following initial submissions to the Agency Head, either party may demand of the other the production of any document or other material the demanding party believes may be relevant to the dispute. The requested party shall produce all relevant materials that are not otherwise protected by a legal privilege recognized by the courts of New York State. Any question of relevancy shall be determined by the Agency Head whose decision shall be final. Willful failure of the Contractor to produce any requested material whose relevancy the Contractor has not disputed, or whose relevancy has been affirmatively determined, shall constitute a waiver by the Contractor of its claim.

2. Agency Head Inquiry. The Agency Head shall examine the material and may, in his or her discretion, convene an informal conference with the Contractor and the ACCO and, in the case of construction or construction-related services, the City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head, to resolve the issue by mutual consent prior to reaching a determination. The Agency Head may seek such technical or other expertise as he or she shall deem appropriate, including the use of neutral mediators, and require any such additional material from either or both parties as he or she deems fit. The Agency Head's ability to render, and the effect of, a decision hereunder shall not be impaired by any negotiations in connection with the dispute presented, whether or not the Agency Head participated therein. The Agency Head may or, at the request of any party to the dispute,

shall compel the participation of any other contractor with a contract related to the work of this Agreement and that contractor shall be bound by the decision of the Agency Head. Any contractor thus brought into the dispute resolution proceeding shall have the same rights and obligations under this Section 12.03 as the Contractor initiating the dispute.

3. Agency Head Determination. Within 30 Days after the receipt of all materials and information, or such longer time as may be agreed to by the parties, the Agency Head shall make his or her determination and shall deliver or send a copy of such determination to the Contractor and ACCO and, in the case of construction or construction-related services, the City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head, together with a statement concerning how the decision may be appealed.

4. Finality of Agency Head Decision. The Agency Head's decision shall be final and binding on all parties, unless presented to the Contract Dispute Resolution Board ("CDRB") pursuant to this Section 12.03. The City may not take a petition to the CDRB. However, should the Contractor take such a petition, the City may seek, and the CDRB may render, a determination less favorable to the Contractor and more favorable to the City than the decision of the Agency Head.

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

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

2. Agency Response. Within 30 Days of receipt of the Notice of Claim, the Agency shall make available to the Comptroller a copy of all material submitted by the Agency to the Agency Head in connection with the dispute. The Agency may not present to the Comptroller any material not presented to the Agency Head, except at the request of the Comptroller.

3. Comptroller Investigation. The Comptroller may investigate the claim in dispute and, in the course of such investigation, may exercise all powers provided in Admin. Code §§ 7-201 and 7-203. In addition, the Comptroller may demand of either party, and such party shall provide, whatever additional material the Comptroller deems pertinent to the claim, including original business records of the Contractor. Willful failure of the Contractor to produce within 15 Days any material requested by the

Comptroller shall constitute a waiver by the Contractor of its claim. The Comptroller may also schedule an informal conference to be attended by the Contractor, Agency representatives, and any other personnel desired by the Comptroller.

        4.   Opportunity of Comptroller to Compromise or Adjust Claim. The Comptroller shall have 45 Days from his or her receipt of all materials referred to in Paragraph (E)(3) above to investigate the disputed claim. The period for investigation and compromise may be further extended by agreement between the Contractor and the Comptroller, to a maximum of 90 Days from the Comptroller's receipt of all the materials. The Contractor may not present its petition to the CDRB until the period for investigation and compromise delineated in this Paragraph has expired. In compromising or adjusting any claim hereunder, the Comptroller may not revise or disregard the terms of the Agreement.

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

        1.   the chief administrative law judge of the Office of Administrative Trials and Hearings ("OATH") or his or her designated OATH administrative law judge, who shall act as chairperson, and may adopt operational procedures and issue such orders consistent with this Section 12.03 as may be necessary in the execution of the CDRB's functions, including, but not limited to, granting extensions of time to present or respond to submissions;

        2.   the City Chief Procurement Officer ("CCPO") or his or her designee; any designee shall have the requisite background to consider and resolve the merits of the dispute and shall not have participated personally and substantially in the particular matter that is the subject of the dispute or report to anyone who so participated; and

        3.   a person with appropriate expertise who is not an employee of the City. This person shall be selected by the presiding administrative law judge from a prequalified panel of individuals, established, and administered by OATH, with appropriate background to act as decision-makers in a dispute. Such individuals may not have a contract or dispute with the City or be an officer or employee of any company or organization that does, or regularly represent persons, companies, or organizations having disputes with the City.

        G.   Petition to CDRB. In the event the claim has not been settled or adjusted by the Comptroller within the period provided in this Section 12.03, the Contractor, within thirty (30) Days thereafter, may petition the CDRB to review the Agency Head determination.

        1.   Form and Content of Petition by the Contractor. The Contractor shall present its dispute to the CDRB in the form of a petition, which shall include (i) a brief statement of the substance of the dispute, the amount of money, if any, claimed, and the reason(s) the Contractor contends that the dispute was wrongly decided by the Agency Head; (ii) a copy of the decision of the Agency Head; (iii) copies of all materials

submitted by the Contractor to the Agency; (iv) a copy of the decision of the Comptroller, if any, and (v) copies of all correspondence with, and material submitted by the Contractor to, the Comptroller's Office. The Contractor shall concurrently submit four complete sets of the petition: one to the Corporation Counsel (Attn: Commercial and Real Estate Litigation Division), and three to the CDRB at OATH's offices, with proof of service on the Corporation Counsel. In addition, the Contractor shall submit a copy of the statement of the substance of the dispute, cited in (i) above, to both the Agency Head and the Comptroller.

2.   Agency Response. Within 30 Days of receipt of the petition by the Corporation Counsel, the Agency shall respond to the statement of the Contractor and make available to the CDRB all material it submitted to the Agency Head and Comptroller. Three complete copies of the Agency response shall be submitted to the CDRB at OATH's offices and one to the Contractor. Extensions of time for submittal of the Agency response shall be given as necessary upon a showing of good cause or, upon the consent of the parties, for an initial period of up to 30 Days.

3.   Further Proceedings. The CDRB shall permit the Contractor to present its case by submission of memoranda, briefs, and oral argument. The CDRB shall also permit the Agency to present its case in response to the Contractor by submission of memoranda, briefs, and oral argument. If requested by the Corporation Counsel, the Comptroller shall provide reasonable assistance in the preparation of the Agency's case. Neither the Contractor nor the Agency may support its case with any documentation or other material that was not considered by the Comptroller, unless requested by the CDRB. The CDRB, in its discretion, may seek such technical or other expert advice as it shall deem appropriate and may seek, on it own or upon application of a party, any such additional material from any party as it deems fit. The CDRB, in its discretion, may combine more than one dispute between the parties for concurrent resolution.

4.   CDRB Determination. Within 45 Days of the conclusion of all submissions and oral arguments, the CDRB shall render a decision resolving the dispute. In an unusually complex case, the CDRB may render its decision in a longer period of time, not to exceed 90 Days, and shall so advise the parties at the commencement of this period. The CDRB's decision must be consistent with the terms of this Agreement. Decisions of the CDRB shall only resolve matters before the CDRB and shall not have precedential effect with respect to matters not before the CDRB.

5.   Notification of CDRB Decision. The CDRB shall send a copy of its decision to the Contractor, the ACCO, the Corporation Counsel, the Comptroller, the CCPO, and, in the case of construction or construction-related services, the City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head. A decision in favor of the Contractor shall be subject to the prompt payment provisions of the PPB Rules. The required payment date shall be 30 Days after the date the parties are formally notified of the CDRB's decision.

6.   Finality of CDRB Decision. The CDRB's decision shall be final and binding on all parties. Any party may seek review of the CDRB's decision solely in the form of a challenge, filed within four months of the date of the CDRB's decision, in a court of competent jurisdiction of the State of New York, County of New York pursuant to Article 78 of the Civil Practice Law and Rules. Such review by the court shall be limited to the question of whether or not the CDRB's decision was made in violation of lawful procedure, was affected by an error of Law, or was arbitrary and capricious or an abuse of discretion. No evidence or information shall be introduced or relied upon in such proceeding that was not presented to the CDRB in accordance with PPB Rules § 4-09.

H.   Any termination, cancellation, or alleged breach of the Agreement prior to or during the pendency of any proceedings pursuant to this Section 12.03 shall not affect or impair the ability of the Agency Head or CDRB to make a binding and final decision pursuant to this Section 12.03.

Section 12.04 Claims and Actions

A.   Any claim, that is not subject to dispute resolution under the PPB Rules or this Agreement, against the City for damages for breach of contract shall not be made or asserted in any action, unless the Contractor shall have strictly complied with all requirements relating to the giving of notice and of information with respect to such claims, as provided in this Agreement.

B.   No action shall be instituted or maintained on any such claims unless such action shall be commenced within six months after the final payment under this Agreement, or within six months of the termination or expiration of this Agreement, or within six months after the accrual of the cause of action, whichever first occurs.

Section 12.05 No Claim Against Officials, Agents, or Employees

No claim shall be made by the Contractor against any official, agent, or employee of the City in their personal capacity for, or on account of, anything done or omitted in connection with this Agreement.

Section 12.06 General Release

The acceptance by the Contractor or its assignees of the final payment under this Agreement, whether by check, wire transfer, or other means, and whether pursuant to invoice, voucher, judgment of any court of competent jurisdiction or any other administrative means, shall constitute and operate as a release of the City from any and all claims of and liability to the Contractor, of which the Contractor was aware or should reasonably have been aware, arising out of the performance of this Agreement based on actions of the City prior to such acceptance of final payment, excepting any disputes that are the subject of pending dispute resolution procedures.

Section 12.07 No Waiver

Waiver by either the Department or the Contractor of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless and until the same shall be agreed to in writing by the parties as set forth in Section 9.01.

ARTICLE 13 - APPLICABLE LAWS

Section 13.01 PPB Rules

This Agreement is subject to the PPB Rules. If there is a conflict between the PPB Rules and a provision of this Agreement, the PPB Rules shall take precedence.

Section 13.02 All Legal Provisions Deemed Included

Each and every provision required by Law to be inserted in this Agreement is hereby deemed to be a part of this Agreement, whether actually inserted or not.

Section 13.03 Severability / Unlawful Provisions Deemed Stricken

If this Agreement contains any unlawful provision not an essential part of the Agreement and which shall not appear to have been a controlling or material inducement to the making of this Agreement, the unlawful provision shall be deemed of no effect and shall, upon notice by either party, be deemed stricken from the Agreement without affecting the binding force of the remainder.

Section 13.04 Compliance With Laws

The Contractor shall perform all services under this Agreement in accordance with all applicable Laws as are in effect at the time such services are performed.

Section 13.05 Unlawful Discrimination in the Provision of Services

A.   *Discrimination in Public Accommodations.* With respect to services provided under this Agreement, the Contractor shall not unlawfully discriminate against any person because of actual or perceived age, religion, creed, sex, gender, gender identity or gender expression, sexual orientation, partnership status, marital status, disability, presence of a service animal, race, color, national origin, alienage, citizenship status, or military status, or any other class of individuals protected from discrimination in public accommodations by City, State or Federal laws, rules or regulations. The Contractor shall comply with all statutory and regulatory obligations to provide reasonable accommodations to individuals with disabilities.

B.   *Discrimination in Housing Accommodations.* With respect to services provided under this Agreement, the Contractor shall not unlawfully discriminate against any person because of actual or perceived age, religion, creed, sex, gender, gender identity or gender expression, sexual orientation, status as a victim of domestic violence, stalking, and sex offenses,

partnership status, marital status, presence of children, disability, presence of a service or emotional support animal, race, color, national origin, alienage or citizenship status, lawful occupation, or lawful source of income (including income derived from social security, or any form of federal, state, or local public government assistance or housing assistance including Section 8 vouchers), or any other class of individuals protected from discrimination in housing accommodations by City, State or Federal laws, rules or regulations. The Contractor shall comply with all statutory and regulatory obligations to provide reasonable accommodations to individuals with disabilities.

C.   *Admin. Code § 6-123*. In accordance with Admin. Code § 6-123, the Contractor will not engage in any unlawful discriminatory practice as defined in and pursuant to the terms of Title 8 of the Admin. Code. The Contractor shall include a provision in any agreement with a first-level subcontractor performing services under this Agreement for an amount in excess of $50,000.00 that such subcontractor shall not engage in any such unlawful discriminatory practice.

D.   *Immigration status*. In connection with the services provided under this Agreement, the Contractor shall not inquire about the immigration status of a recipient or potential recipient of such services unless (i) it is necessary for the determination of program, service or benefit eligibility or the provision of City services or (ii) the Contractor is required by law to inquire about such person's immigration status.

Section 13.05 Americans with Disabilities Act (ADA)

A.   This Agreement is subject to the provisions of Subtitle A of Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131 *et seq.* ("ADA") and regulations promulgated pursuant thereto, see 28 CFR Part 35. The Contractor shall not discriminate against an individual with a disability, as defined in the ADA, in providing services, programs, or activities pursuant to this Agreement. If directed to do so by the Department to ensure the Contractor's compliance with the ADA during the term of this Agreement, the Contractor shall prepare a plan ("Compliance Plan") which lists its program site(s) and describes in detail, how it intends to make the services, programs and activities set forth in the scope of services herein readily accessible and usable by individuals with disabilities at such site(s). If the program site is not readily accessible and usable by individuals with disabilities, contractor shall also include in the Compliance Plan, a description of reasonable alternative means and methods that result in making the services, programs or activities provided under this Agreement, readily accessible to and usable by individuals with disabilities, including but not limited to people with visual, auditory or mobility disabilities. The Contractor shall submit the Compliance Plan to the ACCO for review within ten Days after being directed to do so and shall abide by the Compliance Plan and implement any action detailed in the Compliance Plan to make the services, programs, or activities accessible and usable by the disabled.

B.   The Contractor's failure to either submit a Compliance Plan as required herein or implement an approved Compliance Plan may be deemed a material breach of this Agreement and result in the City terminating this Agreement.

Section 13.06 Voter Registration

A.   *Participating Agencies.* Pursuant to Charter § 1057-a, if this Agreement is made by and through a participating City agency and the Contractor has regular contact with the public in the daily administration of its business, the Contractor must comply with the requirements of this Section 13.06. The participating City agencies are: the Administration for Children's Services; the City Clerk; the Civilian Complaint Review Board; the Commission on Human Rights; Community Boards; SBS; the Department of Citywide Administrative Services; the Department of Consumer Affairs; the Department of Correction; the Department of Environmental Protection; the Department of Finance; the Department of Health and Mental Hygiene; the Department of Homeless Services; the Department of Housing Preservation and Development; the Department of Parks and Recreation; the Department of Probation; the Taxi and Limousine Commission; the Department of Transportation; and the Department of Youth and Community Development.

B.   *Distribution of Voter Registration Forms.* In accordance with Charter § 1057-a, the Contractor, if it has regular contact with the public in the daily administration of its business under this Agreement, hereby agrees as follows:

1.   The Contractor shall provide and distribute voter registration forms to all persons together with written applications for services, renewal, or recertification for services and change of address relating to such services. Such voter registration forms shall be provided to the Contractor by the City. The Contractor should be prepared to provide forms written in Spanish or Chinese, and shall obtain a sufficient supply of such forms from the City.

2.   The Contractor shall also include a voter registration form with any Contractor communication sent through the United States mail for the purpose of supplying clients with materials for application, renewal, or recertification for services and change of address relating to such services. If forms written in Spanish or Chinese are not provided in such mailing, the Contractor shall provide such forms upon the Department's request.

3.   The Contractor shall, subject to approval by the Department, incorporate an opportunity to request a voter registration application into any application for services, renewal, or recertification for services and change of address relating to such services provided on computer terminals, the World Wide Web or the Internet. Any person indicating that they wish to be sent a voter registration form via computer terminals, the World Wide Web or the Internet shall be sent such a form by the Contractor or be directed, in a manner subject to approval by the Department, to a link on that system where such a form may be downloaded.

4.   The Contractor shall, at the earliest practicable or next regularly scheduled printing of its own forms, subject to approval by the Department, physically incorporate the voter registration forms with its own application forms in a manner that permits the voter registration portion to be detached therefrom. Until such time when the Contractor

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amends its form, the Contractor should affix or include a postage-paid City Board of Elections voter registration form to or with its application, renewal, recertification, and change of address forms.

5. The Contractor shall prominently display in its public office, subject to approval by the Department, promotional materials designed and approved by the City or State Board of Elections.

6. For the purposes of Paragraph A of this Section 13.06, the word "Contractor" shall be deemed to include subcontractors having regular contact with the public in the daily administration of their business.

7. The provisions of Paragraph A of this Section 13.06 shall not apply to services that must be provided to prevent actual or potential danger to life, health, or safety of any individual or of the public.

C. *Assistance in Completing Voter Registration Forms*. In accordance with Charter § 1057-a, the Contractor hereby agrees as follows:

1. In the event the Department provides assistance in completing distributed voter registration forms, the Contractor shall also provide such assistance, in the manner and to the extent specified by the Department.

2. In the event the Department receives and transmits completed registration forms from applicants who wish to have the forms transmitted to the City Board of Elections, the Contractor shall similarly provide such service, in the manner and to the extent specified by the Department.

3. If, in connection with the provision of services under this Agreement, the Contractor intends to provide assistance in completing distributed voter registration forms or to receive and transmit completed registration forms from applicants who wish to have the forms transmitted to the City Board of Elections, the Contractor shall do so only by prior arrangement with the Department.

4. The provision of Paragraph B services by the Contractor may be subject to Department protocols, including protocols regarding confidentiality.

D. *Required Statements*. In accordance with Charter § 1057-a, the Contractor hereby agrees as follows:

1. The Contractor shall advise all persons seeking voter registration forms and information, in writing together with other written materials provided by the Contractor or by appropriate publicity, that the Contractor's or government services are not conditioned on being registered to vote.

2.   No statement shall be made and no action shall be taken by the Contractor or an employee of the Contractor to discourage an applicant from registering to vote or to encourage or discourage an applicant from enrolling in any particular political party.

3.   The Contractor shall communicate to applicants that the completion of voter registration forms is voluntary.

4.   The Contractor and the Contractor's employees shall not:

a. seek to influence an applicant's political preference or party designation;

b. display any political preference or party allegiance;

c. make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or

d. make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

E.   The Contractor, as defined above and in this Agreement, agrees that the covenants and representations in this Section 13.06 are material conditions of this Agreement.

F.   The provisions of this Section 13.06 do not apply where the services under this Agreement are supported by a federal or State grant of funds and the source of funds prohibits the use of federal or State funds for the purposes of this Section.

Section 13.07 Political Activity

The Contractor's provision of services under this Agreement shall not include any partisan political activity or any activity to further the election or defeat of any candidate for public, political, or party office, nor shall any of the funds provided under this Agreement be used for such purposes.

Section 13.08 Religious Activity

There shall be no religious worship, instruction, or proselytizing as part of or in connection with the Contractor's provision of services under this Agreement, nor shall any of the funds provided under this Agreement be used for such purposes.

Section 13.09 Participation in an International Boycott

A.   The Contractor agrees that neither the Contractor nor any substantially-owned affiliated company is participating or shall participate in an international boycott in violation of the provisions of the federal Export Administration Act of 1979, as amended, 50 U.S.C.

Appendix. §§ 2401 *et seq.*, or the regulations of the United States Department of Commerce promulgated thereunder.

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

C.   The Contractor shall comply in all respects, with the provisions of Admin. Code § 6-114 and the rules issued by the Comptroller thereunder.

Section 13.10 MacBride Principles

A.   In accordance with and to the extent required by Admin. Code § 6-115.1, the Contractor stipulates that the Contractor and any individual or legal entity in which the Contractor holds a ten percent (10%) or greater ownership interest and any individual or legal entity that holds a ten percent (10%) or greater ownership interest in the Contractor either (a) have no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Principles, and shall permit independent monitoring of their compliance with such principles.

B.   The Contractor agrees that the covenants and representations in Paragraph A above are material conditions to this Agreement.

C.   This Section does not apply if the Contractor is a not-for-profit corporation.

Section 13.11 Access to Public Health Insurance Coverage Information

A.   Participating Agencies. Pursuant to Charter § 1069, if this Agreement is with a participating City agency and the Contractor is one to whom this Section 13.11 applies as provided in Paragraph B of this Section 13.11, the Contractor hereby agrees to fulfill the obligations in Paragraph C of this Section 13.11. The participating City agencies are: the Administration for Children's Services; the City Clerk; the Commission on Human Rights; the Department for the Aging; the Department of Corrections; the Department of Homeless Services; the Department of Housing Preservation and Development; the Department of Juvenile Justice; the Department of Health and Mental Hygiene; the Department of Probation; the Department of Social Services/Human Resources Administration; the Taxi and Limousine Commission; the Department of Youth and Community Development; the Office to Combat Domestic Violence; and the Office of Immigrant Affairs.

B.   Applicability to Certain Contractors. This Section 13.11 shall be applicable to a Contractor operating pursuant to an Agreement which (i) is in excess of $250,000.00 and (ii) requires such Contractor to supply individuals with a written application for, or written renewal or recertification of services, or request for change of address form in the daily administration of its contractual obligation to such participating City agency. "Contractors" to whom this Section

13.11 applies shall be deemed to include subcontractors if the subcontract requires the subcontractor to supply individuals with a written application for, or written renewal or recertification of services, or request for change of address form in the daily administration of the subcontractor's contractual obligation.

C. Distribution of Public Health Insurance Pamphlet. In accordance with Charter § 1069, when the participating City agency supplies the Contractor with the public health insurance program options pamphlet published by the Department of Health and Mental Hygiene pursuant to Section 17-183 of the Admin. Code (hereinafter "pamphlet"), the Contractor hereby agrees as follows:

1. The Contractor will distribute the pamphlet to all persons requesting a written application for services, renewal or recertification of services or request for a change of address relating to the provision of services.

2. The Contractor will include a pamphlet with any Contractor communication sent through the United States mail for the purpose of supplying an individual with a written application for services, renewal or recertification of services or with a request for a change of address form relating to the provision of services.

3. The Contractor will provide an opportunity for an individual requesting a written application for services, renewal or recertification for services or change of address form relating to the provision of services via the Internet to request a pamphlet, and will provide such pamphlet by United States mail or an Internet address where such pamphlet may be viewed or downloaded, to any person who indicates via the Internet that they wish to be sent a pamphlet.

4. The Contractor will ensure that its employees do not make any statement to an applicant for services or client or take any action the purpose or effect of which is to lead the applicant or client to believe that a decision to request public health insurance or a pamphlet has any bearing on their eligibility to receive or the availability of services or benefits.

5. The Contractor will comply with: (i) any procedures established by the participating City agency to implement Charter § 1069; (ii) any determination of the commissioner or head of the participating City agency (which is concurred in by the commissioner of the Department of Health and Mental Hygiene) to exclude a program, in whole or in part, from the requirements of Charter § 1069; and (iii) any determination of the commissioner or head of the participating City agency (which is concurred in by the commissioner of the Department of Health and Mental Hygiene) as to which Workforce Investment Act of 1998 offices providing workforce development services shall be required to fulfill the obligations under Charter § 1069.

D. Non-applicability to Certain Services. The provisions of this Section 13.11 shall not apply to services that must be provided to prevent actual or potential danger to the life, health or safety of any individual or to the public.

Section 13.12 Distribution of Personal Identification Materials

A.   Participating Agencies. Pursuant to City Executive Order No. 150 of 2011 ("E.O. 150"), if this Agreement is with a participating City agency and the Contractor has regular contact with the public in the daily administration of its business, the Contractor must comply with the requirements of this Section 13.12. The participating City agencies are: Administration for Children's Services, Department of Consumer Affairs, Department of Correction, Department of Health and Mental Hygiene, Department of Homeless Services, Department of Housing Preservation and Development, Human Resources Administration, Department of Parks and Recreation, Department of Probation, and Department of Youth and Community Development.

B.   Policy. As expressed in E.O. 150, it is the policy of the City to provide information to individuals about how they can obtain the various forms of City, State, and Federal government-issued identification and, where appropriate, to assist them with the process for applying for such identification.

C.   Distribution of Materials. If the Contractor has regular contact with the public in the daily administration of its business, the Contractor hereby agrees to provide and distribute materials and information related to whether and how to obtain various forms of City, State, and Federal government-issued identification as the Agency directs in accordance with the Agency's plans developed pursuant to E.O. 150.

ARTICLE 14 - MISCELLANEOUS PROVISIONS

Section 14.01 Conditions Precedent

A.   This Agreement shall be neither binding nor effective unless and until it is registered pursuant to Charter § 328.

B.   The requirements of this Section 14.01 shall be in addition to, and not in lieu of, any approval or authorization otherwise required for this Agreement to be effective and for the expenditure of City funds.

Section 14.02 Merger

This written Agreement contains all the terms and conditions agreed upon by the parties, and no other agreement, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind either of the parties, or to modify any of the terms contained in this Agreement, other than a written change, amendment or modification duly executed by both parties pursuant to Article 9 of this Appendix A.

Section 14.03 Headings

Headings are inserted only as a matter of convenience and therefore are not a part of and do not affect the substance of this Agreement.

Section 14.04 Notice

A.   The Contractor and the Department hereby designate the business addresses and email addresses specified in Schedule A (and if not specified in Schedule A, as specified at the beginning of this Agreement) as the places where all notices, directions, or communications from one such party to the other party shall be delivered, or to which they shall be mailed. Either party may change its notice address at any time by an instrument in writing executed and acknowledged by the party making such change and delivered to the other party in the manner as specified below.

B.   Any notice, direction, or communication from either party to the other shall be in writing and shall be deemed to have been given when (i) delivered personally; (ii) sent by certified mail, return receipt requested; (iii) delivered by overnight or same day courier service in a properly addressed envelope with confirmation; or (iv) sent by email and, unless receipt of the e-mail is acknowledged by the recipient by email, deposited in a post office box regularly maintained by the United States Postal Service in a properly addressed, postage pre-paid envelope.

C.   Nothing in this Section 14.04 shall be deemed to serve as a waiver of any requirements for the service of notice or process in the institution of an action or proceeding as provided by Law, including the New York Civil Practice Law and Rules.

AFFIRMATION

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

Full name of Proposer or Bidder *[below]*

_____

Address_____

City_____ State_____ Zip Code_____

CHECK ONE BOX AND INCLUDE APPROPRIATE NUMBER:

☐ A - ☐ Individual or Sole Proprietorships
SOCIAL SECURITY NUMBER _____

☐ B - ☐ Partnership, Joint Venture or other unincorporated organization
EMPLOYER IDENTIFICATION NUMBER _____

☐ C - ☐ Corporation
EMPLOYER IDENTIFICATION NUMBER _____

By_____
      Signature

_____
      Title

If a corporation place seal here

Must be signed by an officer or duly authorized representative.

*   Under the Federal Privacy Act, the furnishing of Social Security numbers by bidders or proposers on City contracts is voluntary. Failure to provide a Social Security number will not result in a bidder's/proposer's disqualification. Social Security numbers will be used to identify bidders, proposers, or vendors to ensure their compliance with laws, to assist the City in enforcement of laws, as well as to provide the City a means of identifying businesses seeking City contracts.

SCHEDULE A

Article 7 -- Insurance	
Types of Insurance **(per Article 7 in its entirety, including listed paragraph)**	**Minimum Limits and Special Conditions**
■ Workers' Compensation §7.02 ■ Disability Benefits Insurance §7.02 ■ Employers' Liability §7.02	Statutory amounts.
■ Commercial General Liability §7.03(A)	$1,000,000.00 per occurrence $1,000,000.00 personal & advertising injury (unless waived in writing by the Department) $2,000,000.00 aggregate $0 products/completed operations Additional Insureds: 1. City of New York, including its officials and employees, and 2. _____ 3. _____
☐ Commercial Auto Liability §7.03(B)	$1,000,000.00 per accident combined single limit If vehicles are used for transporting hazardous materials, the Contractor shall provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48) as well as proof of MCS 90
☐ Professional Liability/Errors & Omissions §7.03(C)	$1,000,000.00 per claim
☐ Crime Insurance §7.03(D)	$_____ Employee Theft/Dishonesty $_____ Computer Fraud $_____ Funds Transfer Fraud

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	$_____ Client Coverage
	$_____Forgery or Alteration
	$_____Inside the Premises (theft of money and securities)
	$_____ Inside the Premises (robbery or safe burglary of other property)
	$_____ Outside the Premises
	$_____ Money Orders and Counterfeit Money
	City of New York is a loss payee as its interests may appear
☐ Cyber Liability Insurance §7.03(E)	*[If there is a significant cyber risk, please consult with the Law Department about specific insurance requirements.]*
☐ [OTHER]	*[If other type(s) of insurance need to be required under the Contract, the Contracting Agency should (a) check the box and fill in the type of insurance in left-hand column, and (b) in this right-hand column, specify appropriate limit(s) and appropriate Named Insured and Additional Insured(s).]*
☐ [OTHER]	*[If other type(s) of insurance need to be required under the Contract, the Contracting Agency should (a) check the box and fill in the type of insurance in left-hand column, and (b) in this right-hand column, specify appropriate limit(s) and appropriate Named Insured and Additional Insured(s).]*
Section 10.07 – Liquidated Damages	
• Violation of Section 3.02(H), reporting subcontractors in the City's Payee Information Portal	**$100 per day**
• _____	**$_____**
Section 14.04 – Notice	
Department's Mailing Address and Email Address for Notices	

Contractor's Mailing Address and Email Address for Notices	

CERTIFICATES OF INSURANCE

Instructions to New York City Agencies, Departments, and Offices

All certificates of insurance (except certificates of insurance solely evidencing Workers' Compensation Insurance, Employer's Liability Insurance, and/or Disability Benefits Insurance) must be accompanied by one of the following:

(1) the Certification by Insurance Broker or Agent on the following page setting forth the required information and signatures;

-- OR --

(2) copies of all policies as certified by an authorized representative of the issuing insurance carrier that are referenced in such certificate of insurance. If any policy is not available at the time of submission, certified binders may be submitted until such time as the policy is available, at which time a certified copy of the policy shall be submitted.

CITY OF NEW YORK
CERTIFICATION BY INSURANCE BROKER OR AGENT

      The undersigned insurance broker or agent represents to the City of New York that the attached Certificate of Insurance is accurate in all material respects.

_____
[Name of broker or agent (typewritten)]

_____
[Address of broker or agent (typewritten)]

_____
[Email address of broker or agent (typewritten)]

_____
[Phone number/Fax number of broker or agent (typewritten)]

_____
[Signature of authorized official, broker, or agent]

_____
[Name and title of authorized official, broker, or agent (typewritten)]

State of ……………………….)
) ss.:
County of …………………….)

Sworn to before me this _____ day of _____ 20___

_____
  NOTARY PUBLIC FOR THE STATE OF _____

WHISTLEBLOWER PROTECTION EXPANSION ACT POSTER

REPORT

CORRUPTION, FRAUD, UNETHICAL CONDUCT
RELATING TO A NYC-FUNDED CONTRACT
OR PROJECT
CALL THE NYC DEPARTMENT OF INVESTIGATION

212-825-5959

DOI CAN ALSO BE REACHED BY MAIL OR IN PERSON AT:
New York City Department of Investigation (DOI)
80 Maiden Lane, 17th floor
New York, New York 10038
Attention: COMPLAINT BUREAU

OR FILE A COMPLAINT ON-LINE AT:
www.nyc.gov/doi

All communications are confidential

Or scan the QR Code above to make a complaint

THE LAW PROTECTS EMPLOYEES OF
CITY CONTRACTORS WHO REPORT CORRUPTION

• Any employee of a City contractor, or subcontractor of the City, or a City contractor with a contract valued at more than $100,000 is protected under the law from retaliation by his or her employer if the employee reports wrongdoing related to the contract to the DOI.

• **To be protected by this law,** an employee must report to DOI − or to certain other specified government officials − information about fraud, false claims, corruption, criminality, conflict of interest, gross mismanagement, or abuse of authority relating to a City contract valued at more than $100,000.

• Any employee who makes such a report and who believes he or she has been dismissed, demoted, suspended, or otherwise subject to an adverse personnel action because of that report is entitled to bring a lawsuit against the contractor and recover damages

Data Steward

5) The Data Steward is normally someone who is responsible for or dependent on the business process associated with the information asset, and who is knowledgeable about how the information is acquired, transmitted, stored, deleted, and otherwise processed.

6) The Data Steward is responsible for determining the appropriate value and categorization of the information generated by the owner or the Agency.

7) The Data Steward must communicate the information value and categorization when the information is released or provided to another entity.

8) The Data Steward is responsible for controlling access to his/her information and must be consulted when other entities wish to extend access authority.

Information Labeling

9) Information within systems or processes must be marked appropriately to ensure that users will be aware of the sensitivity of the information and how it should be protected and controlled. Appropriate marking of mission critical information includes marking it as public, sensitive, private, or confidential.

10) All copies or reproductions maintain the same level of classification as the original.

11) Aggregation of data with different classification levels require reevaluation to determine if a new level of classification is needed.

12) All personally identifiable information should be classified at a minimum as private.

Information Protection

13) Protective measures must take into account the value associated with unauthorized access or loss of information assets.

14) Private or confidential data sent across any network connection must be encrypted in accordance with the Citywide Encryption Standard.

15) Private or confidential data stored in a database or file system must be encrypted in accordance with the Citywide Encryption Standard. Alternatively, approved database security gateway technology may be used in lieu of encryption to protect private data at rest.

Document Revision History

Date	Description
July 28, 2008	**Version 1.2** Issued.
June 16, 2011	**Version 1.3** Updated header with new NYC logo and added this revision history table to the document.
Aug 17, 2012	• **Version 1.4** Update description of confidential data on page 1 (added "Datasets containing information whose disclosure could lead directly to massive financial loss, danger to public safety, or lead to loss of life is classified as CONFIDENTAL." • Added bullets 14 and 15 to match the language used in Encryption Policy.
Sept. 9, 2014	**Version 1.5** Policy review and minor formatting updates.

Data Classification Standard

Objectives

In support of the Data Classification Policy, this standard defines an assessment methodology for determining the data classification of a data-set.

Audience and Scope

This standard applies to all organizations, individuals, employees, vendors and contractors that work with City of New York data.

Directly affected functions consist of:

- Business owners
- Data custodians
- Project Managers
- Information Security Managers
- Application Developers
- Application/system owner

Background

To ensure that business information assets receive an appropriate level of protection, the value of the information must be assessed to determine the requirements for security protection. Business information assets are those that affect and are integral to the City's ability to provide business services with integrity, comply with laws and regulations, and meet public trust.

Data Classification Overview

Data is classified by analyzing the risk to the agency and City of New York in the event of unauthorized disclosure, modification or deletion of data. Risk includes financial (law suits, grant loss, user notification/credit monitoring costs), loss of reputation and good will, negative political exposure to public figures, and safety and well being of the public.

There are specific laws and regulations that govern certain kinds of data such as the NYC Administrative Code, NYS Breach Notification Law, HIPPA, FERPA, and GrammLeach-Bliley. If data is determined to be PII (Personally Identifiable Information) or PHI (Personal Health Information) by any legislation, it automatically becomes classified as PRIVATE.

Contextual analysis plays an important role in any data classification decision. As an example, the following dataset could be classified at SENSITIVE: {First Name and Last Name}. However, if it can be determined that this dataset originated from a list of medical patients with a particular medical condition, it would fall under the category of PHI and needs to be classified as PRIVATE.

PII (Private Identifiable Information)

The following elements are examples of PII, as defined by Federal, State, and Local legislation:

1) Date of birth
2) Social security number

3) Driver's license number

4) Non-driver photo identification card number

5) Any Financial services account number or code (credit card, checking, savings brokerage account, ATM number, etc)

6) Personal identification number

7) Mother's maiden name

8) Computer system password

9) Electronic signature

10) Unique biometric data that is a fingerprint, voice print, retinal image or iris image

PHI (Private Health Information)

Protected health information (PHI) is any information in the medical record or designated record set that can be used to identify an individual and that was created, used, or disclosed in the course of providing a health care service such as diagnosis or treatment.

Data Classification Categories

PUBLIC

Datasets that are purposefully made available through mass distribution channels (web sites or open publication) could be classified as PUBLIC. This data has no requirement for confidentiality. However, controls have to be in place to prevent unauthorized modification of the data (integrity) and to ensure continued access to the data (availability).

Examples of How Data Integrity and Availability can be affected	Impact
A Web Site (such as www.nyc.gov) is compromised and information is modified.	Public is served with misleading and incorrect information which could lead to loss.
A Web Site (such as www.nyc.gov) is compromised and is prevented from presenting the information or information is deleted.	Public is prevented from viewing the information which could lead to loss

SENSITIVE

Datasets that are not classified as PRIVATE (see below), yet are not made publically available through mass distribution channels (web sites or open publications) is classified as SENSITIVE. This category includes information subject to Freedom of Information Law inquires. This data has some requirements for confidentiality and controls have to be in place to prevent unauthorized modification of the data (integrity) and to ensure continued access to the data (availability).

Data Loss	Impact
A list of email addresses signed up for mail distribution is released.	This list can now be used in sending SPAM to the users and will cause a nuisance condition which will be attributed to the City.
Name, address, and phone number of a person making a noise complaint is released.	This information disclosure could have a negative effect on how the public trusts the City.

PRIVATE

Datasets containing PII or PHI, are protected by legislation, or that is deemed too important to be published via channels normally used for PUBLIC or SENSITIVE information automatically classified at PRIVATE. This data has strict requirements for confidentiality and controls have to be in place to prevent unauthorized modification of the data (integrity) to ensure continued access to the data (availability).

Data Loss	Impact
• A list of names and social security numbers is stolen from a financial system database. • Health records are compromised. • An Employee maliciously accesses personal records of taxpayers and sells them to criminals.	• Individuals are exposed to potential identity theft. • Long term loss of reputation. • Public official has to apologize for data loss. • Payment for credit monitoring services

CONFIDENTIAL

Datasets containing information whose disclosure could lead directly to massive financial loss, danger to public safety, or lead to loss of life is automatically classified at CONFIDENTAL.

Data Loss	Impact
• A list of names of undercover law enforcement officers is sold to criminals. • Disclosure of a dignitary protection plan • Loss of control of a SCADA system.	• Obstruction of a criminal investigation • Long term loss of reputation. • Danger to public safety • Loss of life

NOTE: CityNet is not designed to store, transmit or host systems that transact confidential data.

Data Classification Matrix

If data does not clearly fall into one of the 4 data classification levels, you can use a CIA (Confidentiality, Integrity and Availability) matrix to identify data classifications.

- Confidentiality   The need to strictly limit access to data to protect it from loss.
- Integrity   Data must be accurate, and users must be able to trust its accuracy.
- Availability   Data must be accessible to authorized persons, entities, or devices.

Select the most important element in the dataset and apply the following decision matrices:

Data Classification	PRIVATE	SENSITIVE	PUBLIC
Need for Confidentiality	Required	Recommended	None
	and/or	and/or	and/or
Need for Integrity	Required	Required	Recommended
	and/or	and/or	and/or
Need for Availability	Required	Required	Required

Data Classification	Unauthorized Disclosure	Loss of Data Integrity	Access to the Data is Denied
PUBLIC	None	Damage to the reputation of the City	Damage to the reputation of the City
SENSITIVE	Management censure	City management decision making process is compromised.	City management decision making process is compromised.
PRIVATE	• Severe financial and reputation loss to the City • Legal action	City management decision making process is severely compromised.	City management decision making process is compromised.
CONFIDENTIAL	• Severe financial and reputation loss to the City • Threat to life safety • Criminal legal action	Threat to life safety	Threat to life safety

References

NYC Administrative Code, Title 10, Chapter 5,

§ 10-501 Definitions. For the purposes of this chapter,

(a) The term "personal identifying information" shall mean any person's date of birth, social security number, driver's license number, non-driver photo identification card number, financial services account number or code, savings account number or code, checking account number or code, brokerage account number or code, credit card account number or code, debit card number or code, automated teller machine number or code, personal identification number, mother's maiden name, computer system password, electronic signature or unique biometric data that is a fingerprint, voice print, retinal image or iris image of another person. This term shall apply to all such data, notwithstanding the method by which such information is maintained.

New York State General Business Law,

§ 899-aa. Notification; person without valid authorization has acquired private information. 1. As used in this section, the following terms shall have the following meanings:

(a) "Personal information" shall mean any information concerning a natural person which, because of name, number, personal mark, or other identifier, can be used to identify such natural person;

(b) "Private information" shall mean personal information consisting of any information in combination with any one or more of the following data elements, when either the personal information or the data element is not encrypted, or encrypted with an encryption key that has also been acquired:

(1) social security number;

(2) driver's license number or non-driver identification card number; or

(3) account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account;

New York State Technology Law

§ 208. Notification; person without valid authorization has acquired private information. 1. As used in this section, the following terms shall have the following meanings:

(a) "Private information" shall mean personal information in combination with any one or more of the following data elements, when either the personal information or the data element is not encrypted or encrypted with an encryption key that has also been acquired:

(1) social security number;

(2) driver's license number or non-driver identification card number; or

(3) account number, credit or debit card number, in combination with any required security code, access code, or password which would permit access to an individual's financial account.

"Private information" does not include publicly available information that is lawfully made available to the general public from federal, state, or

local government records.

(b) "Breach of the security of the system" shall mean unauthorized acquisition or acquisition without valid authorization of computerized data which compromises the security, confidentiality, or integrity of personal information maintained by a state entity. Good faith acquisition of personal information by an employee or agent of a state entity for the purposes of the agency is not a breach of the security of the system, provided that the private information is not used or subject to unauthorized disclosure.

In determining whether information has been acquired, or is reasonably believed to have been acquired, by an unauthorized person or a person without valid authorization, such state entity may consider the following factors, among others:

(1) indications that the information is in the physical possession and control of an unauthorized person, such as a lost or stolen computer or other device containing information; or

(2) indications that the information has been downloaded or copied; or

(3) indications that the information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported.

(c) "State entity" shall mean any state board, bureau, division, committee, commission, council, department, public authority, public benefit corporation, office or other governmental entity performing a governmental or proprietary function for the state of New York, except:

(1) the judiciary; and

(2) all cities, counties, municipalities, villages, towns, and other local agencies.

(d) "Consumer reporting agency" shall mean any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. A list of consumer reporting agencies shall be compiled by the state attorney general and furnished upon request to state entities required to make a notification under subdivision two of this section.

2. Any state entity that owns or licenses computerized data that includes private information shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the system to any resident of New York state whose private information was, or is reasonably believed to have been, acquired by a person without valid authorization. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subdivision four of this section, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system. The state entity shall consult with the state office of cyber security and critical infrastructure coordination to determine the scope of the breach and restoration measures.

3. Any state entity that maintains computerized data that includes private information which such agency does not own shall notify the owner or licensee of the information of any breach of the security of the system immediately

following discovery, if the private information was, or is reasonably believed to have been, acquired by a person without valid authorization.

4. The notification required by this section may be delayed if a law enforcement agency determines that such notification impedes a criminal investigation. The notification required by this section shall be made after such law enforcement agency determines that such notification does not compromise such investigation.

5. The notice required by this section shall be directly provided to the affected persons by one of the following methods:

(a) written notice;

(b) electronic notice, provided that the person to whom notice is required has expressly consented to receiving said notice in electronic form and a log of each such notification is kept by the state entity who notifies affected persons in such form; provided further, however, that in no case shall any person or business require a person to consent to accepting said notice in said form as a condition of establishing any business relationship or engaging in any transaction;

(c) telephone notification provided that a log of each such notification is kept by the state entity who notifies affected persons; or

(d) Substitute notice, if a state entity demonstrates to the state attorney general that the cost of providing notice would exceed two hundred fifty thousand dollars, or that the affected class of subject persons to be notified exceeds five hundred thousand, or such agency does not have sufficient contact information. Substitute notice shall consist of all of the following:

(1) e-mail notice when such state entity has an e-mail address for the subject persons;

(2) conspicuous posting of the notice on such state entity's web site page, if such agency maintains one; and

(3) notification to major statewide media.

6. Regardless of the method by which notice is provided, such notice shall include contact information for the state entity making the notification and a description of the categories of information that were, or are reasonably believed to have been, acquired by a person without valid authorization, including specification of which of the elements of personal information and private information were, or are reasonably believed to have been, so acquired.

7. (a) In the event that any New York residents are to be notified, the state entity shall notify the state attorney general, the consumer protection board, and the state office of cyber security and critical infrastructure coordination as to the timing, content and distribution of the notices and approximate number of affected persons. Such notice shall be made without delaying notice to affected New York residents.

(b) In the event that more than five thousand New York residents are to be notified at one time, the state entity shall also notify consumer reporting agencies as to the timing, content and distribution of the notices and approximate number of affected persons. Such notice shall be made without delaying notice to affected New York residents.

8. Any entity listed in subparagraph two of paragraph (c) of subdivision one of this section shall adopt a notification policy no more than one hundred twenty days after the effective date of this section. Such entity may develop a notification policy which is consistent with this section or alternatively shall adopt a local law which is consistent with this section.

NIST Publication SP800-122 *"Guide to Protecting the Confidentiality of Personally Identifiable Information"*

"Information which can be used to distinguish or trace an individual's identity, such as their name, social security number, 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."

HIPPA

"(6) INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.--The term 'individually identifiable health information' means any information, including demographic information collected from an individual, that-

"(A) is created or received by a health care provider, health plan, employer, or health care clearinghouse; and

"(B) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, and

"(i) identifies the individual; or

"(ii) with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.

Document Revision History

Date	Description
June 30, 2011	**Version 1.1** Updated header with new NYC logo and added this revision history table to the document.

Digital Media Re-use and Disposal Policy

The Policy

All digital media must undergo a data sanitization process prior to disposal or reuse to protect against unauthorized access to information.

Data Sanitization Procedures will be internally documented by each agency.

Scope

All digital media, file systems and non-volatile storage devices including but not limited to desktop and laptop computers, servers, photocopiers, fax machines, portable and internal hard drives, optical media (e.g., CDs and DVDs), magnetic media (e.g., tapes, diskettes), non-volatile electronic media (e.g., memory sticks), portable devices, cell phones and smart phones are covered under the provisions of this policy. All such devices are referred to collectively as "digital media" in this policy.

Approved Methods for Data Destruction

Where any equipment containing digital media is to be discarded or re-used, donated, sold or otherwise transferred to an external person, organization or vendor (e.g. at the end of a lease or as an RMA (returned merchandise), the City agency must use one of the following approved methods appropriate for rendering all information on the media permanently unreadable:

a. A data wiping program which will securely delete all data by methods that irreversibly wipe the physical area of storage (rather than simply removing the disk-directory reference to that information).

b. Any full disk encryption method which is compliant with the Citywide Encryption Policy and in which it can be reasonably expected that no unauthorized person has the ability to decrypt the data.

c. Degaussing and/or physical media shredding technology which meets NIST standard 800-88 (or its successor):

   http://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-88r1.pdf

Agency support staff may evaluate data stored on any equipment transferred *internally* (within the agency or between City agencies) and bypass the requirements of this policy. All such cases must be documented and approved by agency management to ensure accountability.

An asset can be transferred for disposal to a vendor who has contractually committed to following one or more of the above methods.

Document Revision History

Date	Description
May 20, 2011	**Version 1.0** published.
June 16, 2011	**Version 1.1** Updated header with new NYC logo and added this revision history table to the document.
Sept. 9, 2014	**Version 1.2** Policy review and minor formatting updates.

Encryption Policy

The Policy

All City of New York data with a data classification of private or confidential may not be stored and/or transmitted across any communication mechanism unless it is protected using approved data encryption technology.

Background

Encryption is a method of protection that ensures the confidentiality of data. Use of encryption technology significantly limits unauthorized access to business critical information. To ensure that business information assets receive an appropriate level of protection, the value of the information must be assessed to determine the requirements for security protection. Business information assets are those that affect and are integral to the City's ability to provide business services with integrity, comply with laws and regulations, and meet public trust.

Scope

This policy applies to all information classified as private or confidential that may be transmitted by electronic means. Electronic information is defined as data, stored electronically, copied, and/or transmitted concerning the City of New York business, information systems, employees, business partners, or customers.

Approved Use

1) Only City of New York approved cryptographic algorithms and supporting processes as defined in the Citywide Encryption Standard may be used to protect business critical information and ensure interoperability with other agencies.

Data At Rest

2) Private or confidential data stored in a database or file system (at rest) must be encrypted in accordance with the Citywide Encryption Standard. Alternatively, approved database security gateway technology may be used in lieu of encryption to protect private data at rest.

3) The use of password protection instead of encryption is not an acceptable alternative to protecting private information.

Removable Media

4) Data categorized as private or confidential should not be transitioned to removable media without management approval.

5) Removable media including CDs, backup tapes, and USB memory drives that contain private or confidential data must be encrypted and stored in a secure location.

6) When transferring removable media the receiver must be identified to ensure the person requesting the data is a valid recipient.

Transmission Security

7) Private or confidential data sent across any network connection must be encrypted in

accordance with the Citywide Encryption Standard.

8) Unencrypted transmission of private or confidential data through web applications or email is not allowed.

9) Wireless networks must be encrypted using an approved City of New York standard.

Portable Devices

10) Private or confidential data may only be stored on portable devices such as laptops, smart phones and personal digital assistants (PDAs) when encrypted.

11) Portable devices should not be used for long-term storage of private or confidential data.

12) Where it is technologically feasible portable devices must have the capability to be remotely wiped in the event of theft or accidental loss.

13) Portable devices must have proper protections in place as outlined in the Citywide Portable Computing Information Security Policy.

Encryption Strength

14) Approved encryption algorithms must be of a minimum key length of 128 bits.

Key Management

15) Private keys must be kept confidential.

16) Key lifecycle management must be implemented.

17) Keys in storage and transit must be encrypted.

18) Keys must be chosen randomly from the entire key space.

19) Encryption keys must allow for retrieval for administrative or forensic use.

Document Revision History

Date	Description
April 3, 2008	**Version 1.0** Issued.
June 16, 2011	**Version 1.1** Updated header with new NYC logo and added this revision history table to the document.
October 12, 2011	**Version 1.2** Added the following text to bullet #2: "Alternatively, approved database security gateway technology may be used in lieu of encryption to protect private and/or confidential data at rest."
Aug 17, 2012	**Version 1.3** Updated bullet #7 (changed "across a network connection" to "any network connection." Updated bullet #8 (added "email"). Deleted bullet # 10 (Any private or confidential information transmitted to and from vendors doing business with the City of New York must be encrypted or transmitted in a secure fashion." (redundant)
Sept. 9, 2014	**Version 1.4** Policy review and minor formatting updates.

Encryption Standard

Encryption Policy

All City of New York data with a data classification of private or confidential may not be stored and/or transmitted across any communication mechanism unless it is protected using approved data encryption technology.

Background

Encryption is a method of protection that ensures the confidentiality of data. Use of encryption technology significantly limits unauthorized access to business critical information. To ensure that business information assets receive an appropriate level of protection, the value of the information must be assessed to determine the requirements for security protection. Business information assets are those that affect and are integral to the City's ability to provide business services with integrity, comply with laws and regulations, and meet public trust.

This Encryption Standard described the technical details needed to support implementation of the Encryption Policy.

Scope

This policy applies to all information. Information is defined as anything spoken, overheard, written, stored electronically, copied, transmitted or held intellectually concerning the City of New York general business, information systems, employees, business partners, or customers.

The Citywide encryption Standard will be reviewed annually and upgraded as technology allows.

Transmission Security

Passwords at rest or in transit must be protected with encryption.

The following matrix details insecure network protocols and their supported secure alternatives:

Insecure	Secure
Telnet	SSH v2
TN3270	Secure TN327
FTP	SFTP (SSH) or SSL-FT
HTTP (Web)	HTTPS (SSL/TLS)
SNMPv1	SNMPv3
MS-SQL Connections	Native
Oracle	Native – requires configuration
VoIP	Secure VoIP
WEP	WPA

Data Protection

Data that is collected in the course of an investigation must be classified as CONFIDENTIAL.

Data that is classified as CONFIDENTIAL must be encrypted while at rest and in transmission.

Encryption Strengths and algorithms

The use of proprietary encryption algorithms is not allowed for any purpose, unless reviewed by qualified experts outside of the vendor in question and approved by the Citywide Chief Information Security Officer (CISO).

Proven, algorithms such as AES, Triple-DES, Blowfish, PGP, and RSA should be used as the basis for encryption technologies.

The preferred hash algorithm is 160bit SHA-1. 128bit MD5 is an acceptable alternative.

SSL/TLS implementations should use either 3-DES or AES for the cipher component and 128bit MD5 or 160bit SHA-1 for the digest cipher.

Key Management

Shared keys used for IPSec tunnels must be complex, randomly generated, and not be stored for later reference. During initial setup of an IPSec tunnel, the shared key must be transmitted out of band to the other party involved.

Digital Certificates

DoITT provides two types of digital certificates used to support SSL. Certificates that validate communications used by the general public should be generated by third party provides such as Verisign. Certificates that validate communications used by internal City of New York employees or business partners can be generated by the Citywide NYCNET Certificate Authority or third party providers.

DoITT generates digital certificates through the Citywide Certificate Authority called NYCNET CA.

The NYCNET Root Certificate is available on Cityshare and should be installed on all clients that access Citywide services.

Supporting Guidelines

800-29A A Comparison of the Security Requirements for Cryptographic Modules in FIPS 140-1 and FIPS 140-2

800-38A Recommendation for Block Cipher Modes of Operation - Methods and Techniques

800-38B Recommendation for Block Cipher Modes of Operation: The CMAC Mode for Authentication

800-38C Recommendation for Block Cipher Modes of Operation: the CCM Mode for Authentication and Confidentiality

800-38D Recommendation for Block Cipher Modes of Operation: Galois/Counter Mode (GCM) for Confidentiality and Authentication

800-49 Federal S/MIME V3 Client Profile

800-52 Guidelines for the Selection and Use of Transport Layer Security (TLS) Implementations

800-56A Recommendation for Pair-Wise Key Establishment Schemes Using Discrete Logarithm Cryptography

800-67 Recommendation for the Triple Data Encryption Algorithm (TDEA) Block Cipher

800-78-1 Cryptographic Standards and Key Sizes for Personal Identity Verification, Revision 1

800-106 Randomized Hashing Digital Signatures

800-107 Recommendation for Using Approved Hash Algorithms.

Document Revision History

Date	Description
June 16, 2011	**Version 1.1** Updated header with new NYC logo and added this revision history table to the document.

External Identity Management and Password Policy

The Policy

All user accounts and passwords used to protect public facing City of New York systems which permit individuals or companies to manage their own data shall be appropriately configured and issued for individual use.

Scope

This policy applies to all public (Internet) facing City of New York systems which permit individuals or companies to manage their own data.

Internal systems are those which reside directly on Citynet or on a City agency's internal network and are not Internet facing.   DoITT approved VPN (virtual private network) and remote access are considered internal. The password policy for internal systems is covered separately by the Citywide Password Policy.

General Requirements

1) All internet (public) facing applications requiring authentication must leverage DoITT provided, centralized identity management services from NYC.ID and NYC.gov for user registration and authentication.

2) Public users must be able to utilize DoITT provided self-service mechanisms for password/credentials management.

3) Public facing accounts must be validated with a valid email address and each email address may only be associated with one account.

4) Passwords for public users need not expire.

5) Passwords:

    - Must never be shared or displayed on screen.
    - Must be classified and handled as City of New York PRIVATE data.

Encryption and Hashing

6) Passwords must be encrypted when transmitted electronically with a protocol which is compliant with the Citywide Encryption Standard.

Password Changes

7) A user wishing to change his/her password must be positively identified by demonstrating knowledge of the current password or by other comparable methods.

Account Lockout and Monitoring

8) Consecutive failed login attempts within a *fifteen minute* period must be handled as follows:

   a) After five consecutive failed attempts, CAPTCHA or equivalent functionality must be invoked to verify that a person (and not an automated program) is attempting login.

   b) After eight consecutive failed attempts, the account must be permanently locked until the user successfully resets his/her password by either of the following self service methods:

      • Email based password reset via link provided or
      • User provides correct answers to pre-determined questions.

9) All Login attempts must be logged and monitored.

Password Format, Length and Complexity

10) Passwords must have a minimum length of eight (8) characters and must be constructed using at least one alphabetic character and at least one character which is either numeric or a special character:

Passwords must contain:	Examples
<u>At least one</u> Alphabetic character and	Aa Bb Cc … Zz *(can be lower or upper case)*
<u>At least one</u> Numeric character or	0 1 2 3 4 5 6 7 8 9
Special character	{ } [ ] , . < > ; : ' " ? / | \ ` ~ ! @ # $ % ^ & * ( ) _ - + =

11) DoITT provided Password strength meter must be used during account provisioning dialogues.

Policy Enforcement

12) Where possible, the system must automate the enforcement of these requirements. Where this is not possible, equivalent controls must be established through alternative methods or procedures.

13) Agencies requiring higher levels of authentication may implement those processes within their applications.

Document Revision History

Date	Description
Nov 28, 2012	**Version 1.0** Initial publication
Sept. 9, 2014	**Version 1.1** Policy review and minor formatting updates.

The City of New York

CITYWIDE INFORMATION SECURITY POLICY

Identity Management Security Policy

The Policy

All access to City of New York systems must be authorized and based upon individual identification and authentication.

Agency Responsibility

1) Each agency is responsible for the management of its user identities. This includes identity validation/registration, authentication, authorization, provisioning/de-provisioning and management of identities.

2) Management approval is required before a user is authorized to use any City computing resources.

3) Users who are not City employees, but who are in a current contractual relationship with the City may have access to City computing resources if they have a valid non-disclosure agreement in effect and their sponsor approves their access.

Identity Life Cycle

4) Users must be positively and individually identified and validated prior to being permitted access to any City computing resource.

5) Users will be authenticated at a level commensurate to the data classification of the information being accessed.

6) Access permissions must be defined in accordance with a user's actual functional work requirements.

7) User accounts will be created and de-provisioned in a timely manner. Inactive user accounts will be de-provisioned according to the Citywide Information Security Password Policy.

Citywide Identity Store

8) Each agency must establish connectivity to the DoITT managed Enterprise Directory.

9) Each agency is responsible for managing their identities within the DoITT managed Enterprise Directory/Identity Vault.

10) All applications used by multiple agencies or which support external users are required to utilize the DoITT managed Enterprise Directory for authentication.

11) Applications will be required to participate in the consolidation of external identities to the DoITT managed Enterprise Directory.

Password Controls

12) The password settings of user accounts must comply with the Citywide Information Security Password Policy.

Document Revision History

Date	Description
July 28, 2008	**Version 1.0** Issued
June 16, 2011	**Version 1.1** Updated header with new NYC logo and added this revision history table to the document.
Sept. 9, 2014	**Version 1.2** Policy review and minor formatting updates.

The City of New York

CITYWIDE INFORMATION SECURITY STANDARD

Identity Management Standard

Objective

This standard provides the identity management configuration requirements which agencies connected to the DoITT-managed Enterprise Directory, NYC.ID, must follow. Consistent adherence to these requirements facilitates the ongoing accuracy, manageability and security of the Citywide enterprise directory.

Audience and Scope

This standard applies to all City of New York agencies/employees and to consultants, vendors and other organizations that are authorized to perform account administration on any identity management system connected to the DoITT managed Enterprise Directory.

The scope of this standard includes all identity management systems connected to NYC.ID.

Background

The Citywide Enterprise Directory, NYC.ID, connects to most agency directories providing account authentication and authorization for Citywide applications such as Siebel Analytics and PMA. It also provides password self-service, support for desktop single sign-on and automated account de-provisioning.

Agency Container Requirements

1) The connectors to the internal NYC.ID system are for all internal users, including consultants, contractors and interns. This is required for Citywide application access as well as for whitepages services as part of inter-agency interactions.

2) Service accounts used exclusively by automated processes (not used by people) must not synchronize to the NYC.ID. They must be kept in separate containers (OUs) which are excluded from synchronization.

3) Separate containers (OUs) must be used for employee and non-employee accounts. At the account level, "EmployeeType" must be used to differentiate employee and non-employee accounts. For agencies supported by NYCAPS, please see the "Data Formatting Requirements" section later in this document related to population of EmployeeID information as well as EmployeeType requirements.

4) Generic accounts are not permitted. If they exist and cannot be eliminated immediately they must be placed in containers that are excluded from synchronizing to NYC.ID.

5) Each agency must create and use a "CityWideGroups" container for groups which are synchronized to the NYC.ID environment. The only groups in this container should be those required for Citywide applications and for NYC.ID services such as role management for Citywide applications.

Agency Account De-provisioning Requirements

6) Agencies must follow a two-step account de-provisioning process using a "Departed Users" container and a subordinate container called "Disabled Accounts" as follows:

> OU=Departed Users
> |
> |--OU= Disabled Accounts

This table shows the results of moving accounts in and out of these containers.

Change made in Agency directory	Resulting action in CityWide directory
Account is moved into *Departed Users* container.	User account is disabled in NYC.ID. If account was erroneously moved, this change can be reversed with no issues.
Account is moved into *Disabled Accounts* container.	User account is removed from NYC.ID. All Citywide application group memberships and password synchronization are lost.
Account is moved out of *Departed Users* container (into synchronized container).	*Login disabled* setting is synchronized from setting in Agency directory.

The connector to the Citywide Directory must be updated to support these settings (if this has not already been done at agency.)

7) Automated account de-provisioning for NYCAPS agencies will become a mandatory configuration in the future as part of NYC.ID Citywide automated provisioning and role management.

8) Account names and Email addresses must not be re-used upon de-provisioning. This is to prevent issues with the NYC.ID services, integrated data sources and applications that need to store user profiles with historical information tied to account names (for example Document Management systems).

9) Upon permanent disabling of accounts, all group memberships and other rights (such as file share access) must be updated to remove the account from access in order to ensure that only active users are listed when reviewing rights.

Application Requirements

10) Applications integrated with NYC.ID (Citywide applications) must:

   a. Not store user credentials that are used to authenticate to the NYC.ID services.

   b. Handle their own application specific user profile management needs including synchronization management.

   c. Handle their own cleanup of application user profiles.

   d. Use available NYC.ID services for external account registration and authentication for public facing applications.

   e. Use available NYC.ID Business Partner/Known User services to manage any non-CityNet users requiring access to an internal CityNet application. This is combined with the DoITT SSL/VPN services to enable password management and application access. (This eliminates the problematic historical use of agency LAN accounts for non-CityNet users which complicated the identity and

password management process. Please refer to the NYC.ID documents on integrating internal applications or contact the NYC.ID team for further details.)

Other Requirements

11) All non-employee accounts (both onsite and offsite) must be reviewed periodically by the authorizing employee/manager to ensure access rights are still appropriate and the account is still needed.

12) Agency must <u>not</u> add user accounts from other agencies to its directory or applications. Doing so causes discrepancies in the Citywide enterprise directory such as duplicate email IDs. Applications serving multiple agencies are considered Citywide applications and must adhere to the Citywide Identity Management Policy which requires them to integrate with NYC.ID.

13) Agency directories must not use personal/external email addresses for internal accounts. Agency use of external email addresses can bypass email archiving/discovery processes and expose information sent via Internet based email, leaving the agency unable to investigate potential regulatory, legal and business issues.

14) Agency managed accounts must be configured to comply fully with the Citywide Password Policy (e.g., password complexity, age, history, expiration and lockout).

15) Agency must document existing email domain names used and inform the DoITT NYC.ID team when new domains are required.

16) Agency must maintain accurate and up-to-date account contact information.

17) All agencies/units supported by NYCAPS, must ensure a dynamic bi-directional supported connector is implemented to enable application/service delivery, automated provisioning/de-provisioning and application role management.

18) The NYC.ID infrastructure supports connectors for authoritative data sources for the core user identity (for example Peoplesoft for EmployeeID, Pinnacle for work telephone number, and primary agency directory for email address and password). NYC.ID also supports connectors where the NYC.ID infrastructure cannot be utilized for authentication and authorization (for example z/OS or RACF).

All other applications must use LDAP query mechanisms for obtaining core user identity information for updating user profile information within their databases. Applications can use vendor import processes, custom LDAP scripts/tools, or integration products such as Directory Wizards, SimpleSync, Tivoli Directory Integrator (TDI), Oracle Data Integrator, various LDAP client tool/scripts or API interfaces to update user profile information into an application database.

Data formatting requirements:

19) The EmployeeID attribute must be the 7 digit number from NYCAPS/PMS, including leading zeros. Example: 0123456, 0012345, or 1234567. Any non-NYCAPS/PMS numbers must be stored in a different attribute than the one used for NYCAPS/PMS numbers.

20) For all NYCAPS agencies – the NYCAPS/PMS Employee ID must be stored in the EmployeeID attribute for each user account in the agency's LAN environment.

21) The EmployeeID attribute must be synchronized bi-directionally to the Citywide Directory for purposes of Citywide Identity Management efforts – including reporting and automated de-provisioning.

22) Non-employees should be assigned an ID of the form "C" + 3-digit Agency Code (or Business Unit if applicable) + a 6-digit number managed by the agency (example: C858123456).

23) EmployeeType attribute must be set as follows for all NYCAPS agencies:

> Use 'E' for all NYCAPS registered employees and interns
> Use 'C' for consultants/contractors/vendors
> Use 'I' for interns that are not paid from NYCAPS/PMS.
> Use 'B' for business partners.
> Use 'T' for test accounts.
> Use 'S' for service accounts.

24) Telephone Numbers must be formatted as follows:

> (xxx) yyy-zzzz or *(212) 555-1212*

> An optional space delimited extension may be added if applicable as follows:
> (xxx) yyy-zzzz xzzz or *(212) 555-1212 x123*

25) Whitespace and special characters may not be used in the account name. If account name is used as part of the Email address, the limitations described in the Internet RFC 5322 and RFC 5321 standards also apply.

26) The last name field for each account must be populated in the agency directory in order for synchronization to NYC.ID to occur.

27) Email addresses must meet RFC 5322 and RFC 5321 requirements.

Definitions

28) Authoritative Data Source – an application or database providing the "master" source of core account information on a user in the NYC.ID infrastructure.

29) Provisioning – The process of automating the creation/deletion of accounts used for authentication, authorization and storing authoritative data required by NYC.ID. Provisioning also includes the processes required to activate assets/services for a user via the Citywide Remedy ARS platform, necessary to provide users with resources/assets/services and associate the assets/services with the user.

30) Identity Connector – technology used to synchronize the core user identity information to/from authoritative data sources.

31) External User – a public user/citizen accessing internet facing applications. This can include any "self-registration" customer such as small businesses as well.

32) Business Partner/Known User – a user outside CityNet requiring access to an internal CityNet application. These users are sponsored by the City Agency/Application Owner.

33) Agency – an agency/organization authorized for access to CityNet – typically restricted to NYCAPS registered organizations.

Document Revision History

Date	Description
June 30, 2011	**Version 1. 2** Updated header with new NYC logo and added this revision history table to the document.

The City of New York

CITYWIDE INFORMATION SECURITY POLICY

Incident Response Policy

The Policy

All known or suspected security incidents impacting City of New York data must be reported.

Background

A security event is any scenario that requires a response from the security team. It could be as simple as changing a user's password. An incident is an event that violates an explicit or implied policy. A security incident is an event that compromises, damages, or causes a loss of confidential or protected information. Depending on the significance of the incident specific actions will need to occur per policy and any applicable laws.

Purpose

To provide a framework for quick and orderly response to information security incidents ranging from unauthorized intrusions to inadvertent loss resulting in the compromise of privacy, integrity or availability of data.

Scope

This policy applies to all individuals granted access to City of New York information or systems. Individuals include employees of the City of New York, vendors, contractors, third parties and any others doing business with the City.

Incident Classification

1) The following table shall be used to classify agency or citywide security incidents:

	Level 1 - Guarded	**Level 2 Elevated**	**Level 3 Severe**
Impact	• Minor impact on operations • An IT asset has been lost or stolen containing Public information.	• Moderate impact on operations • Business continuity affected. • An IT asset has been lost or stolen containing data classified as Sensitive or higher • Incident results in a violation of any state or federal law.	• Severe impact on operations • Business continuity is disrupted • An IT asset has been lost or stolen containing data classified as Private or Confidential.
People	• A physical intrusion has been detected. • An abuse of user privileges • Local agency policies have been violated.	• Identified risk for personal harm or safety • Physical intrusion to secured location(s) has been detected. • Abuse of access privileges above user level	• Personal security or safety has been compromised. • Personnel have been harmed

Data	• **Data classified as Public:**	• **Data classified as Sensitive or higher:**	• **Data classified as Private or Confidential:**
	• Availability affected	• Availability affected	• Availability lost
	• Unauthorized access or requests for access	• Unauthorized access or requests for access	• Unauthorized access or requests for access
	• Confidentiality suspected or compromised	• Loss of data	• Loss of data
	• Integrity violated	• Confidentiality suspected or compromised.	• Unauthorized disclosure
		• Integrity violated	• Confidentiality suspected or compromised
Systems	• Availability of systems affected	• Widespread instances of known viruses or other malware, not handled by deployed anti-virus software	• Penetration detected with significant impact on operations
	• Potential for penetration detected	• Penetration attempts detected with impact on operations	• Widespread number of systems affected
	• Denial of service attack(s) with no impact on operations	• Denial of service attack(s) with impact on operations	• Loss of mission critical systems or applications
	• Inappropriate system probes, scans or other activities detected.	• Significant number of systems affected	
	• Instances of known viruses or other types of malware are detected and contained by deployed anti-virus software	• System integrity compromised	
		• Loss of non-critical systems or applications	

Security Monitoring

2) Each agency shall implement a security monitoring process that will identify security incidents and violations which will include:

   a. Noting any unexpected loss or changes in electronic data.

   b. Noting any suspicious behavior, such as requests for access or password information by unauthorized persons.

   c. Noting any unauthorized network or host intrusion attempts.

   d. Definition of roles and responsibilities.

   e. Definition of timeframes for following up on security events.

   f. Documentation requirements and reporting of all incidents to the appropriate authority.

Security Incident Reporting and Escalation

3) Each agency shall implement and document an incident response procedure. Reporting and notification of incidents should occur based on the severity of the incident and the

unique reporting structure of the agency.

4) Incidents which impact Citywide applications or Citynet must be reported to the agency CISO who will notify the Citywide CISO.

Document Revision History

Date	Description
April 3, 2008	**Version 1.0** Issued.
June 30, 2011	**Version 1.1** Updated header with new NYC logo and added this revision history table to the document.
Sept. 9, 2014	**Version 1.2** Policy review and minor formatting updates.

Personnel Security Policy

The Policy

All employees, contractors, and consultants must be appropriately screened, trained, and supervised.

Job Position Security Requirements

1) City Agencies must ensure that:

   a. Security requirements critical to performance of job responsibilities are clearly defined.

   b. Job descriptions include all applicable security responsibilities.

2) In conjunction with Human Resources background checks must be performed on all employees. Background checks will performed on contractors and all temporary personnel in accordance with their contract terms.

3) In unique situations, the responsible party at the Agency may make exceptions to this requirement providing appropriate supervision is granted while the individual has access to City assets.

Management Responsibilities

4) All agency managers are responsible for enforcing City-wide and agency level information security policies.

5) Compliance with information security requirements should be reflected in individual's performance evaluations**.**

User Responsibilities

6) All City employees, contractors, consultants, temporary personnel, clients, and vendors are responsible and accountable for safeguarding and preventing the unauthorized disclosure, modification or destruction of information assets entrusted in their care.

7) Users must follow the access and handling requirements identified in local information security policies.

8) All employees and contractors must relinquish all City of New York assets upon termination of contract or employment. This includes but is not limited to; copies of information received and/or created, identification badges, and computing devices.

User Security Training

9) Each new employee is required to attend an orientation specific to their City agency. The orientation must explain the agency's information security policies. A record must be maintained that every person with access to City business information acknowledges that he/she:

   a. Has read and understands the information security policies.

   b. Understand his/her responsibilities to comply with the policies which affect that person's job responsibilities.

c. Understands the consequences of an infraction.

Disciplinary Practice

10) Each Agency, in conjunction with their Human Resources and Legal Departments, must develop and implement a formal disciplinary practice for noncompliance with information security policies.

11) Disciplinary practice may involve action up to and including termination for serious violations and repeated offenses.

12) Criminal or civil liability may apply to any individual who knowingly violates security requirements.

13) Individuals who violate the City Information Security Policies may have their access removed or suspended. Contractors will have their company notified and legal action taken. The action taken in each situation will be decided between the Information Owner and the Agency Head.

Acknowledgement

14) Every user of City of New York computing resources will receive a copy of the Citywide User Responsibilities Policy and sign an acknowledgement of receipt and understanding.

Document Revision History

Date	Description
September 7, 2007	**Version 1.0** Issued.
June 16, 2011	**Version 1.1** Updated header with new NYC logo and added this revision history table to the document.
January 18, 2012	**Version 1.2** Removed the following bullets: **Confidentiality Agreement** 9) All City personnel with access to City Critical Information assets must sign a confidentiality agreement which forbids the disclosure of such information to parties within or outside of the City who do not have a business need. 10) All non-City personnel (temporary contract employees, contractors, vendors/consultants and/or the vendor/consultant Company on their behalf, and third-party users) must sign a nondisclosure agreement to receive access to any City Critical Information. 11) Confidentiality and/or nondisclosure agreements must be reviewed periodically, and/or whenever there are changes in terms of employment or the contractual agreement. Added the following bullet from the User Responsibilities Policy: 14) Every user of City of New York computing resources will receive a copy of the Citywide User Responsibilities Policy and sign an acknowledgement of receipt and understanding.
April 19, 2012	**Version 1.3** Changed classification of this policy from sensitive to public.
Sept. 9, 2014	**Version 1.4** Policy review and minor formatting updates.

Portable Data Security Policy

The Policy

All portable computing devices used to process and store City of New York information must be physically protected and appropriate security measures provided for the data contained.

Access

1) Where the device supports it, the power-on, or security password, must be enabled.

2) Some portable computing devices limit password strength. If a password conforming to the requirements of the Citywide Password Policy cannot be used, then the strongest password permitted by the device should be used. Information classified as CONFIDENTIAL cannot be stored in the device without encryption.

3) Automatic login scripts, which would allow an unauthorized party access to an account without requiring a password, are prohibited.

4) Portable computing devices must not be left unattended at any time when remotely connected to Citynet.

5) Portable computing devices should be protected in accordance with the value of the information contained in the device.

Protection

6) Confidential information must be protected at all times. In a situation of accidental loss or theft of a portable device the appropriate parties should be notified. Where the device permits, the data should be remotely wiped.

7) Confidential information can be stored on removable media (e.g., disks, removable drives, tapes, flash memory cards, CDs, USB memory devices) if the data is encrypted. The removable media should be physically protected (e.g., locked in a desk drawer, safe, or kept with the individual).

8) Laptop PCs, Smart Telephones, PDAs, etc. that can be physically carried by the user must be protected as one would protect a wallet or similar container that holds one's identity (e.g., driver's license, credit cards, etc.).

9) Laptop PCs, Smart Telephones, PDAs, etc. shall not be used to store or transmit information classified as CONFIDENTIAL (including e-mails and attachments to emails) unless these devices are in compliance with all of the City of New York Information Security Policies.

10) If the device is synchronized with a personal computer, the Confidential information transferred should be appropriately protected on the personal computer in accordance with the City's Information Security Policies.

11) Up-to-date, anti-virus software must be installed and automatic scanning enabled, when such software is available. All externally obtained media or files should be scanned before any files are opened.

User Responsibilities

12) Backup of any data stored on a portable computing device is the responsibility of the user. The backup device is also bound to the **Portable Data Security Policy**.

13) Confidential information must not be accessed on trains or in public places, unless the user has taken all reasonable precautions against inadvertent disclosure to unauthorized individuals.

14) Loss of a portable computing device or the loss of removable media that contains CONFIDENTIAL information must be reported to the individual's manager and to the agency's Chief Information Security Officer as soon as possible, but not later than 24 hours after detection of the loss.

Disciplinary Practice

15) When reasonable care has not been exercised in safeguarding a portable computing device, the individual may be subject to disciplinary action and be held responsible for the replacement cost if the device is lost or stolen.

Document Revision History

Date	Description
September 7, 2007	**Version 1.1** Issued.
June 16, 2011	**Version 1.2** Updated header with new NYC logo and added this revision history table to the document.
April 19, 2012	**Version 1.3** Changed classification of this policy from sensitive to public.
Sept. 9, 2014	**Version 1.4** Policy review and minor formatting updates.

Security Architecture Standard

Purpose

Information security must be an integral and mandatory part of any system or infrastructure designed to provide access to information. It is very difficult to add information security measures after a system has been designed, and the resulting system may not comply with City of New York Information Security policies. This document will define various models and security controls so that a system can be built to interface with the existing architecture.

Scope

All externally accessible applications or internally accessible Citywide applications developed to support City of New York business must be built in a secure fashion. These applications must be reviewed and approved by the Citywide Chief Information Security Officer (CISO). Accreditation must be achieved prior to migrating to the production environment.

Background

CityNet is a Department of Information Technology and Telecommunications (DoITT) operated, trusted network that interconnects city agencies, hosts citywide applications, and provides Internet-based services citywide. DoITT utilizes policies, processes, and technology to protect this network, its applications, its hosts, and the data processed therein. This layered security design comprises the CityNet Security Architecture.

Security Policy

The Citywide Chief Information Security Officer (CISO) has responsibility for ensuring appropriate security controls are applied to protect confidentiality, integrity, and availability of City of New York information systems.

The purpose of policies is to provide guidance for selecting and specifying appropriate security controls for information systems. These policies have been developed to:

- Facilitate a more consistent, comparable, and repeatable approach for selecting and specifying security controls for City systems;

- Facilitate development of City Baseline Security Controls for information systems based on the confidentiality, integrity, and availability requirements;

- Create a foundation for the development of information system security controls that meet legal requirements, industry best practices, and City objectives;

- Facilitate the development of consistent assessment methods and procedures for testing security controls effectiveness.

Data Classification

The Data Classification Policy provides a critical foundation for information security decisions. To ensure that business information assets receive an appropriate level of protection, the value of the information must be assessed to determine the requirements for security protection. Business information assets are those that affect and are integral to the City's ability to provide

business services with integrity, comply with laws and regulations, and meet public trust.

All information at the City of New York and corresponding agencies will be classified at one of four levels: Public, Sensitive, Private, or Confidential.

Public	This information might not need to be disclosed, but if it is, it shouldn't cause any damage.
Sensitive	This information requires a greater level of protection to prevent loss of confidentiality.
Private	This information is for agency use only, and its disclosure would damage the reputation of the agency.
Confidential	This is the highest level of sensitivity, and disclosure could cause extreme damage to the agency.

When looking at the information stored or processed by an application, it is important to assess its classification based on the content itself, where it was collected, where it will be stored, the method of transmission and how it will be queried.

For example, a name or address may be publicly available information. If it was collected by a HIPAA application, and is stored in a shared database with other application data that can tie the name to a medical condition, the classification changes

Security Accreditation Process

All externally accessible applications or internally accessible Citywide applications developed to support City of New York business must be built in a secure fashion. These applications must be reviewed and approved by the Citywide Chief Information Security Officer (CISO). Accreditation must be achieved prior to migrating to the production environment. See the "Security Accreditation Process" document for more information.

Security Zones

CityNet is logically divided into security zones, where corresponding security controls are defined based on security policy, threats and exposure:

Untrusted	Systems that are unmonitored and unprotected by DoITT security infrastructure
DMZ	Systems that are protected and monitored by DoITT security infrastructure, but have some direct exposure to the Internet
Trusted	Internal systems that are part of shared service environments and are protected and monitored by DoITT security infrastructure
Most Trusted	Internal LAN segments, connected to CityNet, without any external connections that are protected by firewalls
Examples:	The following systems are classified as such:

- Untrusted   Internet Perimeter, Extranet connections, ISP Agencies

- DMZ   Two-tier and three-tier DMZ, Web DMZ, App DMZ
- Trusted   CSC Hosting, CityNet Agencies
- Most Trusted   Telephony LAN, CSC-P (protected)

Perimeter

A traditional information security paradigm is the "perimeter". The perimeter logically demarcates between the uncontrolled Internet and internal networks that fall under some level of DoITT control. The CityNet perimeter is defined by the following touch points:

- Internet connections at Financial Information Services Agency (FISA) and 11 Metrotech Center
- Extranet connections at 11 Metrotech Center and 2 Lafayette Avenue
- Site to Site VPN Connections
- Agency Connections
- NYCWiN wireless infrastructure
- Out of band connections

Internet Access

All outgoing Internet access must be authenticated, monitored, filtered, and tracked. For authentication, individual agencies may pass their local Internet traffic through an agency proxy. Agencies may also use the shared proxy servers in the hosting environment. DoITT also maintains a content filter service at the perimeter, which forces all traffic through a content filter to block inappropriate and dangerous internet access. The content filter also controls access for those users who are restricted to viewing specifically authorized websites. The content filter also plays a key role in blocking access to websites that host malicious code used to infect PCs. Agency heads who chose to opt out of the DoITT managed content filter and deploy a local filtering solution will certify to the Citywide CISO and the Inspector General for their respective agencies that a localized content filter is in place.

NOTE: The Department of Investigation's Inspector General may request these logs in hard or electronic format in support of an investigation.

City agencies **may not** maintain direct connections to the Internet or to any external entities on any CityNet connected device. Connection via the DoITT-supported CityNet cloud, or otherwise, is granted only upon review culminating in approval. DoITT is properly configured to act as a City agency's high-bandwidth Internet service provider (ISP) and VPN/extranet provider.

DoITT also maintains an Anti-Spyware system that blocks access to known malware and spyware sites and traffic. This system detects the traffic in a similar fashion to an IDS and then resets the connection before it can reach the Internet.

CityNet Connectivity

There are eight main connectivity models that are supported by DoITT:

   1) Direct Agency connectivity – The most common CityNet connections are those between

the Agencies and CityNet. These connections are facilitated through DoITT routers at key locations throughout the City of New York. There are no access controls on these routers.

2) ISP Agency connectivity – There are some agencies that maintain their own connections to the Internet as well as connections to CityNet. These agencies are separated from CityNet by a firewall since DoITT does not control these ISP connections and cannot maintain the integrity of CityNet without this control.

3) Extranets (Site to Site connections via dedicated connections) – These include partners such as financial institutions, that maintain dedicated connections (for example, T1) to City financial systems. These dedicated connections terminate on the Internet perimeter and are controlled by rules in the external firewalls.

4) VPN Connections (Site to Site connections via the Internet) – These include partners such as financial institutions, that require persistent connections to City financial systems. These connections are supported through site to site IPSec VPN tunnels that terminate on the Internet perimeter. DoITT supports a VPN "Edge" device for smaller remote offices that may not have IPSec capable perimeter equipment.

5) Application specific connections – When an external vendor or business partner needs access to a specific extranet or internal application, this access is provisioned through SSL VPN. The SSL VPN allows external parties to connect to DoITT via their standard web browser, eliminating the need for a heavy client to be installed on their workstation. This access type is also used for applications that need to be exposed to a known set of external users.

6) General purpose remote access – DoITT provisions SSL VPN profiles for employees who need remote access for "telework."

7) Client to Server connections – When a vendor or other entity needs access to a system that is difficult to support via SSL VPN, client IPSec connections can be used.

8) Government extranet connections - Government extranet connections such as those from NYS terminate in a special DMZ at 2 Lafayette.

DoITT maintains VPN tunnels to many partners. CityNet is not to be used to facilitate pass-through connectivity between VPN-connected agencies and other remote resources.

ISP Agency connectivity through the Citywall firewalls is designed to facilitate a controlled subset of traffic exchange. If an agency desires to take advantage of the full offering of DoITT managed services, such as email, server, and desktop support, it must first remove its ISP connection and become an integrated CityNet Agency.

Remote Access

Agencies are strongly encouraged to use a dedicated terminal server on their network for access to non-web applications.

A prerequisite for both modes of client VPN are an agency directory such as LDAP or Active Directory. DoITT remote access solutions do not support locally configured user databases.

Site to Site VPN should be used whenever an organization needs a persistent connection to CityNet. The tunnel will be limited with firewall rules to allow them minimum access needed to accomplish business related tasks. Site to Site VPN is also the recommended

method for allowing external groups of support personnel or developers from a single organization to access CityNet.

IPSec tunnels used within CityNet may not traverse firewalls. For special situations where internal tunnels are required and must traverse a firewall, they must be terminated on both ends of the boundary to allow for inspection of the encapsulated traffic.

Client IPSec VPN is a legacy method of remote access. While DoITT will continue to support this mode of access, users are encouraged to migrate to SSL VPN where possible.

SSL VPN (RA) is the recommended method of remote access. It uses SSL as the tunneling mechanism, which is almost universally allowed through firewalls. For access to internal, web based applications, it is also clientless. However, RA also supports WSAM, which is an ActiveX component that enables fat client access through the SSL tunnel. RA also supports an SSH and Terminal Services client.

There are 3 types of RA configurations available:

1) CityPoint is where Sharepoint portals for Citywide use may be accessed remotely.
2) CityShare is where external parties with authorization may access the Citywide Intranet.
3) Mayoral Agencies may request their own RA site that can include logo customizing as well as Agency supported, 2-factor authentication tokens.

DMZ

A DMZ is a set of logical networks with direct access to the Internet as well as internal networks. It acts a buffer between the untrusted Internet and trusted internal networks, allowing select services to be exposed to the Internet while not doing so directly from trusted areas. The following general requirements apply to all City DMZs:

1) Traffic originating from Internet based systems must be authenticated at the perimeter before being allowed to access CityNet.
2) Databases may not be placed within the Internet DMZs.
3) Groups that require administrative access to servers within any DMZ may do so only with workstations configured with static addresses.
4) Applications developed primarily for internal users with a limited external user base will not be exposed to the Internet and will use VPN for access.

DoITT maintains a two-tier DMZ for hosting infrastructure services and a three-tier DMZ for hosting Internet-facing applications. Each environment resides at geographically diverse sites for redundancy. Requirements for these environments are provided below:

Two-Tier DMZ

This DMZ is maintained to support specific public infrastructure services such as SMTP and SFTP.

1) Applications may not reside in this DMZ and new applications may not be deployed here.

2) Revisions to legacy applications remaining in this DMZ are not permitted.

3) Legacy applications remaining in this DMZ must be migrated to the three-tier DMZ.
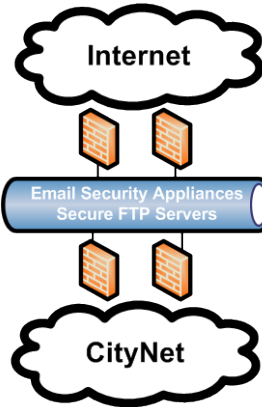
Three-Tier DMZ

The Three-tier DMZ maintains a web, application, and database layer separation with 3 firewalls.

1) New public facing applications must be deployed in this DMZ.

2) Any legacy applications remaining in the two-tier DMZ must be migrated to this DMZ.
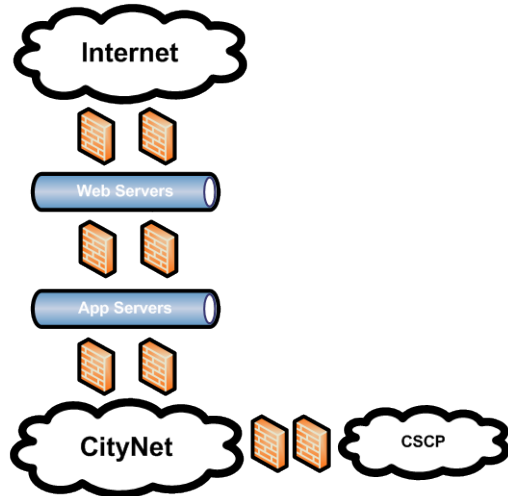
Agency DMZ

Before DoITT began hosting Internet-facing applications for City agencies, certain agencies were permitted to terminate dedicated T1 connections to a router in the two-tier DMZ to support a local DMZ with Internet access. This architecture presents a "backdoor" risk to Citynet and is no longer approved.

1) Agencies hosting Internet-facing applications or services must migrate them to a DoITT managed datacenter.
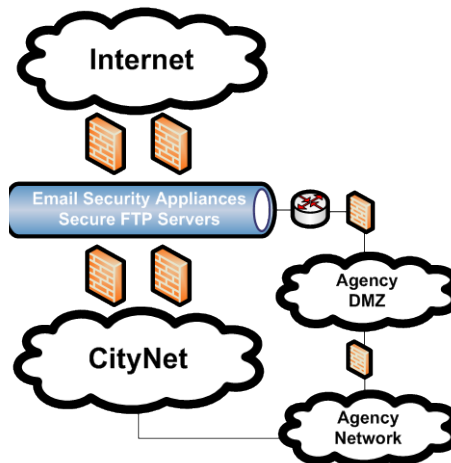
Internal CityNet Firewalls

From a connectivity perspective, CityNet is a flat network in that there are no barriers engineered between most IP subnets. The advantage of this design is that CityNet can be used as a virtual WAN transport to connect multiple agency sites without the expense of traditional WAN circuits. It also makes centralized resources like those hosted in the CSC domain easier to reach. The disadvantage of such a network is that any system can be impacted by rogue traffic unleashed on CityNet that results from various mis-configurations at an agency or a worm outbreak. Some agencies therefore chose to implement internal firewalls to help segregate themselves from such a situation

There are two models for the use of firewalls on CityNet.

1) Many agencies maintain firewalls between CityNet and their agency network. In this scenario, they are completely responsible for any troubleshooting or impact that it might have on their interactions with CityNet.

2) It is recommended that databases storing PRIVATE data be deployed behind a firewall in order to restrict access.

   To this end, a protected environment (CSC-P) has been implemented at 2 Metrotech. No end user connections may terminate behind this firewall. It is recommended that agencies use this environment to protect PRIVATE data stored in databases. Where agencies choose to forego use of this environment to protect PRIVATE data, this will be noted as a risk in the Security Accreditation review (where required) and the risk must be understood and formally accepted by the executive level management of the agency. Please see the "CSC-P Access Standard" for further information.

Security Monitoring

DoITT maintains a number of monitoring tools that collect and analyze information that moves across CityNet.

- Network – Intrusion detection (IDS) and behavior analysis tools collect information from the network through direct observation and Netflow statistical analysis.

- Event Based – Security information and event management (SIEM) tool collects log events from firewalls.

- Host Based Intrusion Prevention - Agents collect information on unauthorized changes made to systems.

Email Protection

DoITT maintains redundant email gateway infrastructures that provide anti-spam and anti-virus protection for email that flows through CityNet. One set of gateways process email transiting the Internet perimeter. The other gateways process inter-agency email (including outbound agency email) for agencies that cannot route email via DNS and cannot provide anti-virus gateway services. DoITT anti-spam controls are configured less granularly, and agencies may use local controls for more granular control.

1) Any email (excluding ISP Agencies) that enters or exits CityNet must first pass through the DoITT mail gateways for anti-virus and anti-spam scanning.

2) The Internet facing email gateways use a combination of mechanisms to defend against SPAM and email-borne viruses. The gateways are capable of scanning and blocking attachments as well as using heuristics to judge the content and source of the message. There is also a DNS reputation filter that judges the source of the email by its score on a watch list. This combination of checks and the resulting action is tunable by DoITT.

3) SMTP servers that are attached to CityNet must comply with the Citywide SMTP Configuration Guideline.

4) Mail routing within CityNet is defined by the CityNet Email Architecture Standard.

Citywide Directory Services

DoITT maintains an Enterprise LDAP directory service that provides centralized authentication services and Agency directory interoperability. This service should be used for all authentication and authorizations needs. Application specific and proprietary credential stores are strongly discouraged.

Telephony

Citywide Telephony Services (currently 311 and 1 Center St) are physically located behind firewalls in order to prevent unauthorized network level access and protect from attack. Policy requirements are as follows:

1) There are 3 Security Zones

    a.   Most Trusted

    b.   Telephony DMZ

    c.   External - CityNet

2) PBX is located in the "Most Trusted" Zone.

3) Servers and components that need to talk to the PBX should be located in the Most Trusted Zone.

4) Components from DMZ or Trusted zone are not authorized to talk across network to the PBX. This is to prevent PBX IP stack from being overloaded by external communications except from Nortel authorized products that are certified to communicate with a PBX in a proper manner(due to a security Nortel recommendation).

5) Third Party Servers and components related to Telephony will be located in DMZ Zone.

6) Servers and components in DMZ Zone are authorized to talk to non PBX Servers and Components in the Trusted Zone by firewall rules.

7) Firewall Policy requirements:

Traffic Flow	Firewall Access Rules
CityNet > Inside	Access Rule controlled on per IP host basis
CityNet > DMZ	Access Rule controlled on per IP host basis
Inside > CityNet	No restrictions
DMZ > CityNet	No restrictions
Inside > DMZ	No restrictions
DMZ > Inside	Access Rule controlled on per IP host basis

Digital Certificates

Digital certificates play a key role in effective deployment of SSL based technologies and PKI. DoITT maintains an internal certificate authority for the provisioning and revocation of internally used certificates. DoITT facilitates the procurement of 3rd party certificates from vendors such as Verisign, for publicly facing applications.

Document Revision History

Date	Description
November 18, 2010	**Version 1.7** Reformatted for consistency with current format. **Page 3:** Internet Access section modified to clarify language pertaining to direct connections. "City agencies may not maintain direct connections to the Internet or to any external entities on any CityNet connected device." and "DoITT is properly configured to act as a City agency's high-bandwidth Internet service provider (ISP) and VPN/extranet provider." **Page 5-6:** DMZ section modified to clarify language and diagrams pertaining to rules for two-tier, three-tier and agency DMZs. The requirements and meaning did not change, only the clarity.
June 30, 2011	**Version 1.8** Updated header with new NYC logo and added this revision history table to the document.
February 13, 2013	1) **Version 1.9** Added details on CSC-P environment: "It is recommended that databases storing PRIVATE data be deployed behind a firewall in order to restrict access. To this end, a protected environment (CSC-P) has been implemented at 2 Metrotech. No end user connections may terminate behind this firewall. It is recommended that agencies use this environment to protect PRIVATE data stored in databases. Where agencies choose to forego use of this environment to protect PRIVATE data, this will be noted as a risk in the Security Accreditation review (where required) and the risk must be understood and formally accepted by the executive level management of the agency. Please see the "CSC-P Access Standard" for further information."

User Responsibilities Policy

The Policy

All users of City of New York Systems must comply with Citywide Information Security Policies.

Information Protection Responsibilities

1) All users, consultants, and contractors are responsible and accountable for safeguarding information assets from unauthorized modification, disclosure, and destruction.

2) Critical data and removable data devices (USB drives, CDs, external drives, etc) must be protected by appropriate physical means from modification, theft, or unauthorized access. All removable media must meet the requirements set forth in the Citywide Portable Data Security Policy.

3) Users may not install unauthorized access points (wired or wireless) to CityNet.

4) Agency data must be controlled in accordance with pertinent regulatory requirements and City of New York policies.

   a. Access to electronic data should be appropriately limited to users.
   b. Documents classified PRIVATE or CONFIDENTIAL must be filed and stored appropriately when not in use.

5) When faxing SENSITIVE information, the recipients should be called in advance to ensure the fax is properly managed upon receipt.

6) When finished faxing, copying or printing all documents should be removed from the common area.

7) Users must screen lock their active workstations when left unattended.

8) Users must utilize passwords to protect city-issued PDA devices and voice mail systems.

9) All City of New York assets must be returned upon a user's end of employment or conclusion of contract.

Password Confidentiality

10) Passwords and PINs:

   - Must never be shared or displayed on screen.
   - Must be changed when there is any indication of system or password compromise.

11) Writing down passwords is strongly discouraged. Passwords that are written should be appropriately stored in a secure location to prevent disclosure to anyone other than the individual user. Passwords that are written should not reference the account or data store they protect.

Password Requirements

12) Passwords and PINs must have a minimum length of eight (8) characters with the exception of voice mail systems, and Blackberry and PDA devices issued by the City which must use a password or PIN of at least 4 alphanumeric characters.

13) Passwords must be constructed using at least one alphabetic character and at least one character which is either numeric or a special character.

14) Passwords must not be derived from easily guessed, common words or phrases such as those found in dictionaries (English and non-English), nor should they be constructed from user IDs, proper names or other names, words, numbers or dates readily associated with the individual user (e.g., telephone extension, Social Security number, or zip code).

15) Passwords must be changed every ninety (90) days.

16) Users cannot re-use any of the past four (4) passwords.

17) Passwords used by a person on City of New York systems should be different from any passwords used by the same person on non-City of New York systems (for example, on accounts used on social networking, ecommerce and other personal online sites). In the event that a personal (non-City) account password is compromised, this reduces the risk to City systems

Privacy and Confidentiality Considerations

18) Computer systems and all related computing equipment are the property of the City of New York. Users have no right to privacy when using City computing resources. All content and traffic on CityNet may be monitored and reviewed by management.

19) Unauthorized use of computing resources may result in disciplinary actions.

20) Impersonating another user is explicitly prohibited.

Acknowledgement

21) Every user of City of New York computing resources will receive a copy of the Citywide User Responsibilities Policy and sign an acknowledgement of receipt and understanding.

Document Revision History

Date	Description
May 5, 2010	**Version 1.3** Page 1, paragraph 4: "Confidential Agency or citizen data" changed to "Agency Data." Page 1, paragraph 4b: "Paper documents must be filed and stored in a locked device when not in use" was changed to "Documents classified as PRIVATE or CONFIDENTIAL must be filed and stored appropriately when not in use.
June 16, 2011	**Version 1.4** Updated header with new NYC logo and added this revision history table to the document.
November 29, 2012	**Version 1.5** Added the following text: *Passwords used by a person on City of New York systems should be different from any passwords used by the same person on non-City of New York systems (for example, on accounts used on social networking, ecommerce and other personal online sites). In the event that a personal (non-City) account password is compromised, this reduces the risk to City systems.*
Sept. 9, 2014	**Version 1.6** Policy review and minor formatting updates.

Vulnerability Management Standard

The Policy

All City of New York Information systems must be monitored for vulnerabilities to maintain their operational availability, confidentiality and integrity.

Background

Vulnerability management is a security practice designed to discover and mitigate information technology systems vulnerabilities that may exist in the Citywide technology infrastructure. Proactively managing vulnerabilities of information systems reduces the risk exposure to the infrastructure. There is a Citywide vulnerability management system hosted by DoITT that should be used by all agencies directly connect to CityNet.

Scope

The policy specifically targets city agencies and covers all computing resources directly connected to the DMZ or Citynet .

Minimum Technical Capability Requirements for Vulnerability Management Solutions

- A vulnerability management solution must have the following capabilities:

- Be able to discover all assets across the network, and identify host details including operating system and open services.

- Allow the management of assets through categorizing into groups or business units.

- Assign a business value to asset groups based on its criticality to your business operation.

- Determine a baseline risk profile for assets.

- Identify security vulnerabilities on a regular automated schedule.

- Measure the level of business risk associated with your assets according to your security policies.

- Trend overall security posture over time.

- Facilitate the prioritization and remediation of vulnerabilities by business risk.

- Verify the elimination of threats through follow-up audits.

Roles and Responsibilities

At least one agency business unit manager must be assigned who will be responsible for scheduling scans and ensuring that vulnerability tickets are review, remediated, and closed.

It is the responsibility of the business unit manager to ensure that all agency assets are mapped quarterly and scanned every two weeks.

Scans will open tickets for identified vulnerabilities with severity level 4 or 5, and assign them to the business unit manager. These vulnerability tickets should be resolved and the asset re-scanned within seven days.

Scanner Selection

The Citywide vulnerability solution uses scanning nodes that are geographically dispersed across CityNet. During setup, IT Security will assign a scanner to a Business Unit to ensure that Citywide scanning load is properly balanced. Business unit managers should ensure that all scans are run using this assigned scanner.

Citywide Vulnerability Management Group Naming

To ensure uniformity and ease of reporting agencies are required to have 7 basic Asset groups listed below.

<Agency>_Network -Includes all the subnets assigned to an agency. A network Map is required every 3 months for this asset group with the "Citynet Map / Scan Profile" or uses this as a template to enhance the profile to suit your agency requirements.

The IPs discovered by the Asset map scan should be grouped into one of the following asset groups and scanned.

- **Win_Srv_asset_<Agency>** -This asset group should contain windows servers. The asset group should be scanned every week with Windows authentication enabled in the scan profile.

- **Win_Client_asset_<Agency>** -This asset group should contain all windows desktop. You should track this group by DNS or NetBIOS name depending on what is suitable for your agency network. The asset group should be scanned at least once every month.

- **Unix_Srv_asset_<Agency>** -This group should contain all unix systems discovered by the map. This asset group should be scanned every week.

- **DB_Srv_asset_<Agency>** -This group should contain DB servers discovered by the map and also the individual assets should be part of one of the windows or Unix server asset groups.

- **Ntwk_Hw_asset_<Agency>** -This group should contain all mapped network devices and appliances. The group should be scanned at least once every month.

- **Misc_Hw_asset_<Agency>** -This group should contain all mapped IP's which don't fit into any of the above. This group should be scanned on all the tcp and udp ports once every month.

Document Revision History

Date	Description
June 30, 2011	**Version 3.1** Updated header with new NYC logo and added this revision history table to the document.

Vulnerability Management Policy

The Policy

All City of New York information systems must be monitored for vulnerabilities to maintain their operational availability, confidentiality, and integrity.

Background

Vulnerability management is a security practice designed to discover and mitigate information technology vulnerabilities that may exist in the Citywide technology infrastructure. Proactively managing vulnerabilities of information systems reduces the potential for exploitation.

Scope

This policy specifically targets City agencies and covers all computing resources directly operationally controlled by the City of New York.

System Inventory

1) All computing resources must be inventoried to determine the types of hardware, operating systems, and software applications that are used within the organization.

2) The computing resource inventory must be periodically reviewed and updated in order to accurately reflect the environment. The inventory must be updated whenever new resources, hardware, operating systems, or software are added to the environment.

Monitor for Vulnerabilities and Threats

3) Agencies must continuously monitor sources of threat and vulnerability information from internal and external security sources.

4) Agencies must perform a timely review of vulnerability information received from reputable sources.

5) Proper analysis must be performed to confirm applicability of identified vulnerabilities in comparison to system inventory.

6) Applicable vulnerabilities must be categorized according to a vulnerability classification. Classification at minimum should consist of urgent, routine, or not applicable.

Remediation and Mitigation of Vulnerabilities

7) Agencies must have a process to remediate vulnerabilities based on significance.

8) Agencies must use automated patch management tools to expedite the distribution of patches to systems.

9) Agencies must maintain a process that develops an action plan to remediate all verified vulnerabilities

Vulnerability Confirmation

10) All agencies with a direct Citynet connection shall participate in DoITT's automated vulnerability management program and meet the Citywide Vulnerability Management Standard when published.

11) Agencies without a direct Citynet connection must maintain a suitable vulnerability management process.

12) Agencies must verify vulnerability remediation through network and host vulnerability scanning.

Document Revision History

Date	Description
September 3, 2008	**Version 1.2** Issued.
June 16, 2011	**Version 1.3** Updated header with new NYC logo and added this revision history table to the document.
Sept. 9, 2014	**Version 1.4** Policy review and minor formatting updates.
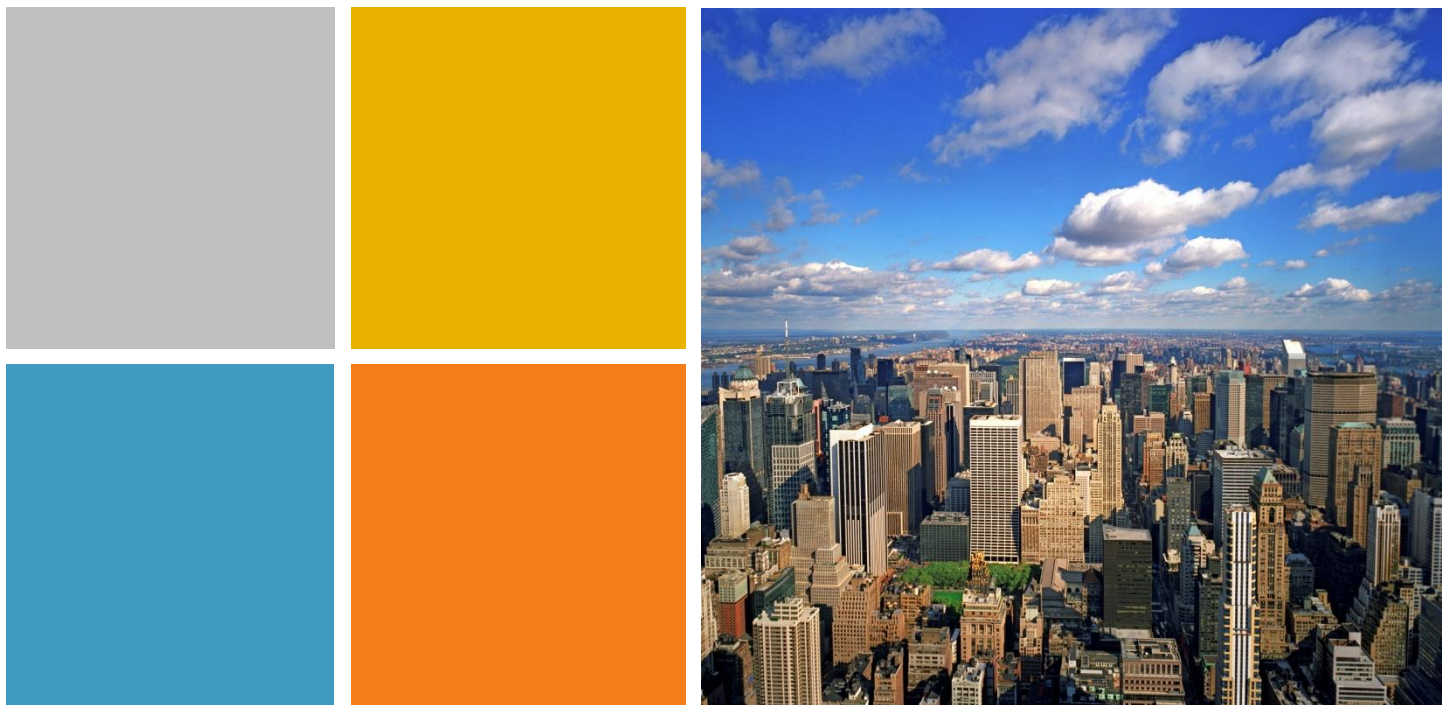
Citywide Policy on Cloud

Final 1.1

2/13/2017

City of New York

Department of Information Technology and Telecommunications

Citywide Policy on Cloud

Contents

1.0   Overview

1.1   Introduction

DoITT recognizes the value of cloud services to enhance service delivery and improve operations for the City of New York (City). Cloud services also change City operations, and there are many ways in which the cloud will affect the City's IT environment and services to the City's constituents. The goal of this policy is to facilitate diverse uses of the cloud, while ensuring optimal levels of City technology services and security.

1.2   Audience

The audience to this policy is all City of New York agencies and government entities. The entities that are considering, or may consider, the use of cloud services now or in the future must review this policy and comply with its requirements upon planning the use of any type of cloud services.

1.3   Purpose

The purpose of this policy is to ensure that all City uses of cloud services meet the City's requirements in security, performance, and evolving technical and administrative areas.

This policy outlines the ways in which cloud services interact with City IT infrastructure and services and seeks to guide City entities in the considerations that must be addressed when using cloud services. This is not a comprehensive review of all considerations, so proper diligence must be made in exploring cloud options, and DoITT serves as a resource.

1.4   Scope

This policy applies to all City of New York agencies and government entities.

Cloud Definition

For the purposes of this policy, cloud is defined as any services (including applications and data hosting or transfer) that reside off-premise, on hardware that is not owned by the City.

This policy applies to all projects that use any type of cloud services. In particular, this policy provides guidance regarding Infrastructure as a Service (IaaS) and Software as a Service (SaaS). IaaS is commonly used to procure commoditized application hosting, such as AWS and Azure. SaaS refers to the purchase of software services hosted by the provider, such as Salesforce.com and Akamai. The policy also addresses Platform as a Service (PaaS), which provides a platform for developing, running, and managing applications. All other types of cloud services, often referred to as "X" as a service (XaaS) or "anything as a service," such as storage as a service (e.g. Google Drive), are also covered under this policy. Cloud services under the scope of this policy may be procured via contract, open source, or obtained via other any mechanism.

More detailed definitions of IaaS, SaaS, PaaS, as well as cloud computing, are defined by the National Institute of Standards and Technology (NIST) at:
http://nvlpubs.nist.gov/nistpubs/Legacy/SP/nistspecialpublication800-145.pdf

2.0 Policy

2.1 Policy Statement

City entities must inform DoITT of all uses of cloud services to ensure that proper security, legal, and operational measures are considered. City entities should inform DoITT by submitting a request through DoITT's Service Catalog.[1] DoITT will work with entities to validate that their use of cloud services is technically and administratively viable and to ensure that adequate protection measures are taken concerning City data, liability, security, and other City requirements.

All City entities seeking to select or implement a cloud service must submit their projects to DoITT as early as possible in the process, preferably at the initial planning stage. DoITT technical teams will provide guidance on the planned use of cloud. Depending on the scope, DoITT will determine whether an Cybersecurity review is needed, advise on alternative solution pathways, if relevant, and/or provide other guidance, as applicable. Engaging with DoITT as early as possible improves DoITT's capacity to evaluate the chosen solution pathway to ensure that required information security and other City requirements can be met.

City entities must also abide by any relevant Citywide technology policies that apply to their implementation. In particular, regardless of the hosting site, City applications are subject to requirements regarding security accreditation and performance testing. In addition, City entities must adhere to information/data security regulations and requirements to ensure that they are commensurate with the classification of any data stored in the cloud.

Existing Agency Cloud Implementations
When requested, City entities will be expected to provide information to DoITT regarding all their existing cloud implementations, including those in use prior to this policy. DoITT's ultimate aim is to gather information on all cloud services used across the City in order to review issues related to security, bandwidth, and interoperability. Building and maintaining this Citywide inventory of cloud services will be critical to ensuring that the City is prepared to prevent and respond to potential security threats or compromises in a timely manner.

City entities are encouraged to submit existing cloud implementations to DoITT for review. Services that are implemented without being reviewed may be operating at risk. The purpose of DoITT's cloud review

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[1] DoITT's Service Catalog provides information about DoITT's service offerings and enables agencies to submit service requests. City entities that do not have access to the Service Catalog should contact Agency Relations – AgencyRelations@doitt.nyc.gov.

is to ensure that City entities are empowered with clear information about potential operating risks associated with cloud services and recommendations for secure usage.

Sections 2.2 through 2.6 describe the types of considerations and associated reviews needed for City use of cloud services.

2.2   IaaS

All City uses of IaaS must be managed through DoITT's Self Provisioning Gateway (SPG). For IaaS cloud services not yet available through the SPG, City entities must submit their implementation plan to DoITT to determine the best approach and ensure information security.

The SPG is a web portal for New York City agencies to obtain secure provisioning of cloud infrastructure. The SPG enables authorized administrators, developers, or business users to self-provision select classes of virtual machines in DoITT's "private cloud" or in select external cloud service providers, as they become available. Virtual machines are quickly provisioned through automation. The user of the SPG is then able to use, maintain, and operate their virtual machines throughout the virtual machine's entire lifecycle.

Agencies must be on-boarded to the SPG in order to access and use it for DoITT's IaaS offerings. Agencies can request to be on-boarded by submitting a request through the DoITT Service Catalog. Once an agency has been on-boarded, approved users can access the SPG directly. Further information about DoITT's IaaS services and SPG can be found in the DoITT Self-Service Provisioning Policy. Further information about the types of virtual machines available on the SPG as well as related service information is available on the Service Catalog. DoITT IaaS offerings are currently available at no charge; however, DoITT reserves the right to charge back the cost of IaaS services to agencies in the future. Any changes in cost will be communicated to agencies and published on the SPG service page.

Entities using IaaS are responsible for working with DoITT to ensure that their use of IaaS cloud services complies with relevant Citywide Cybersecurity policies. With DoITT support, City entities are responsible for conducting the appropriate reviews and implementing the necessary security measures required for their specific implementation. For example, in all cases that involve the handling or storage of data, Cybersecurity policies and requirements, such as data classification and data protection, will apply.

2.3   SaaS/PaaS

All City uses of SaaS or PaaS must be reviewed and approved by DoITT Cybersecurity prior to procurement and implementation (see section 2.5). City entities are advised to inform DoITT of their plans to leverage a SaaS or PaaS solution as soon as they have chosen the product, but at the very least, before a contract is signed. DoITT's technical team will review critical aspects of the SaaS or PaaS solution including, but not limited to, the following:

- Authentication and authorization
- Platform and hosting model (e.g. separate instance vs. multi-tenant, multi-tier)
- Data requirements

- o   Classification
- o   Recovery
- o   Storage model
- o   Retention and deletion
- Application security

2.4   Cloud Contracting

City entities must use DoITT-negotiated cloud vendor contracts, and may contract directly with external cloud providers only to obtain services that are not available through DoITT. Where DoITT's contracts do not include needed cloud services, DoITT recommends that agencies use the New York State Office of General Services (OGS) contracts wherever possible. As with all uses of cloud services, City entities that are planning to contract directly with cloud providers should notify DoITT by submitting a request to the Service Catalog.

Entities contracting directly with cloud providers to obtain services that are not available through DoITT must maintain in their records a copy of the contract governing the use of the cloud service. This is usually a copy of the provider's service agreement or click-wrap and would otherwise not be included in the procurement document. This is true even if the cloud service is purchased using the NYS OGS or the federal General Services Administration (GSA), where the terms and conditions of the service agreement are often referenced by a hyperlink. The entity's General Counsel should review the terms of the service agreement to ensure that: a) the City is adequately protected, b) the advertised services aren't undermined by disadvantageous contract terms and hidden costs, and c) there is a binding service level agreement that includes liquidated damages.

In most cases, the service agreement will favor the provider and the City entity must negotiate for fair, reasonable and practical terms and conditions. DoITT has established a list of cloud contract considerations that must be addressed for all uses of cloud services, including data handling, security, support, and administration. This list of cloud contract considerations is included in Appendix 1. Entities must consider each topic as applicable to their specific cloud use case under negotiation. Every service agreement must include a statement disclaiming any ancillary documents or click-through agreements.

The entity should also establish clear processes and terms for on-boarding and separation assistance that guarantees the elimination of all customer data from the Cloud Service Provider ("CSP") upon separation.

A sample Cloud Service Agreement is included as Appendix 2 and can be used as a model by any City entity. DoITT's Office of General Counsel may be able to assist or advise on legal issues arising from cloud services contracting.

2.4.1   Cloud Services through City Partners

The policies stated in section 2.1 still apply in cases when a contractor or systems integrator conducts work on behalf of a City entity. If a contractor pursues a cloud solution to complete work for a City entity, that cloud solution will still need to be reviewed by DoITT to ensure it meets City technical requirements.

2.5 Information Security

DoITT Cybersecurity works with cloud providers to ensure that cloud-based solutions are securely implemented and aligned with Citywide cybersecurity policies. For IaaS, City entities are advised to leverage the DoITT SPG, which will provide hosting options from DoITT's private cloud as well as from external cloud service providers that have been vetted by DoITT Cybersecurity (see section 2.2). For all other uses of cloud services that are outside DoITT's offerings, City entities must ensure that the cloud service provider is vetted and approved by DoITT Cybersecurity. DoITT will work directly with the cloud service provider to review the provider's security certifications (e.g. compliance to FedRAMP, Service Organization Controls, ISO standards) and/or conduct a DoITT cybersecurity cloud vendor assessment and/or security accreditation review.

In all cases, any applications residing in a cloud environment must go through the DoITT security accreditation review process, including those developed by, or in conjunction with, SaaS cloud providers. DoITT reserves the right to perform a cybersecurity assessment and/or IT audit on cloud provider environments in order to ensure that City data and systems are properly secured.

2.6 Network/Bandwidth

All City entities using cloud services outside of the DoITT SPG must account for projected bandwidth usage and ensure that they have the appropriate level of bandwidth prior to using the cloud service. If entities are unable to project their bandwidth needs, DoITT can assist the entity in completing a Network Cloud Assessment. Through this assessment, DoITT works with the City entity to determine project requirements with regard to bandwidth allocation and usage, monitoring and management support, communications, connectivity, and disaster recovery.

DoITT's Network Design and Engineering team will work with the City entity as necessary to determine the networking requirements of their project and plan accordingly. In particular, City entities should be aware that:
- The cloud vendor should confirm its ability to establish varying methods of connectivity, and provide terms associated with establishing such connectivity.
- The cloud vendor should disclose any telecommunications providers used.

3.0 Roles and Responsibilities

DoITT is responsible for ensuring that infrastructure, networks, and applications are cloud-ready and procedures are in place for connecting to the cloud. This includes maintaining the SPG, addressing cybersecurity risks, maintaining network bandwidth, and expanding cloud offerings with selected vendors as deemed necessary. DoITT is responsible for evaluating all cloud projects (upcoming as well as existing cloud implementations) and raising issues regarding interoperability between City and cloud systems and services. DoITT serves as a resource for entities that are planning IT projects of all types, including cloud-based services.

City agencies and entities are responsible for engaging DoITT for the review of projects that will leverage cloud services. In collaboration with DoITT, agencies are responsible for ensuring the security

of their data and applications and thoroughly evaluating internal and cloud options to ensure that cloud services are utilized in an efficient manner that supports the specific business need. City entities will also be expected to provide information to DoITT regarding all agencies' cloud implementations in use for DoITT review of issues related to security, bandwidth, and interoperability.

4.0   Ownership and Contact

This policy is owned by Al Frangella, DoITT Director of Cloud. Please contact afrangella@doitt.nyc.gov with questions.

5.0   Authorship and Change History

Contributors

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Change Details

Version	Change Highlights	Author(s)	Date
1.0	First publication	All contributors above	8/22/2016
1.1	Edits to cloud definition, section 1.4	Kim Truong	2/13/2017

6.0   APPENDIX

6.1   APPENDIX 1—Contract Considerations for Cloud Services Agreements

The public entity and the cloud service provider (CSP) must establish terms (types of service, levels of service, and cost) in each of the following areas and the CSP must demonstrate its ability to fulfill the terms, as applicable to the services under contract.

The following <u>must be considered</u> in all City contracts for cloud services. Adjustments can be made in accordance with the type and scope of cloud service.

DATA
1. **Backup**:
   a. In cases where backup is required, all agreements should establish service level agreements (SLAs) for the restoration process including recovery time objective (RTO) and recovery point objective (RPO), and the CSP must demonstrate its ability to meet that SLA, with penalties established for failure to meet SLA.
   b. Where backup is required, private data and its backups must be encrypted in transit and at rest.
2. **Data Retention**:
   a. Where legal mandates for data retention apply, all agreements must establish terms for preservation, retention, filtering, and retrieval. The CSP must demonstrate its ability to meet the legally mandated requirements.
   b. The CSP should define whether export will cause alteration/loss of any data or metadata.
   c. The agreement should establish terms for confirming that preservation is occurring.
   d. The agreement should establish terms for data availability (24/7/365 or other).
   e. Even where legal mandates do not apply, the CSP may not delete or remove City data without express permission of the City to do so.
3. **Business Continuity**: Where Business Continuity/Disaster Recovery (BC/DR) services are required, all agreements should establish terms for BC/DR, and the CSP must demonstrate its ability to fulfill the terms. If BC/DR is required, such requirements take precedence over the *force majeure* clause.
4. **Portability**:
   a. Where portability is required, all agreements should establish terms for portability, and the CSP must demonstrate its ability to fulfill the terms.
   b. The CSP must describe how/in what format data or applications would be returned to the customer.
   c. Where portability is required, all private data must be encrypted in transit.
5. **Data Ownership**:
   a. All data is owned exclusively by the customer agency/entity and cannot be used by the CSP for any purpose other than the services provided to the customer.
   b. The CSP should not be able to remove metadata.
   c. The CSP is given no right to use City data for any purpose other than serving the City as a customer.
6. **Data Commingling:** Data commingling should be prohibited.

INFORMATION SECURITY

Cloud providers should be able to demonstrate compliance with current Citywide Security Policies at the request of city agencies. At a minimum, they should adhere to the following:

7. **Encryption**: The use of proprietary encryption algorithms is not allowed for any purpose, unless reviewed by qualified experts outside of the CSP in question and approved by the Citywide Chief Information Security Officer.

8. **Incidents**:
   a. The CSP should immediately notify the customer of any breach of the security of customer data following discovery of the breach if personal or health care information was, or is reasonably believed to have been, acquired or accessed by an unauthorized person. The CSP should also notify the agency General Counsel and the Citywide Chief Information Security Officer.
   b. The CSP should allow customers to participate in root cause analysis or agree to provide a detailed written root cause analysis for any breach.
   c. Upon City request, the CSP must supply all logs (including operating system, DBMS/database, and application logs) for the affected host machine.
   d. Terms should be set for damages in the case of harm to the customer due to security incidents.
   e. The CSP should provide a documented incident response plan.

9. **Reporting**:
   a. The CSP should provide notification of any breach and/or attempted breach.
   b. Any history of security breaches or attempted breaches must be disclosed.
   c. If the CSP is served with a warrant, subpoena or any other order or request from a government body or any other person for any records or files of customer data or metadata (as defined), the CSP will, as soon as reasonably practical and not in violation of law, deliver a copy of such warrant, subpoena, order, or request to the customer and will not comply without customer's prior written consent unless and until required to do so under applicable law.

10. **Firewalls**: The CSP should use reasonable precautions, including, but not limited to, physical, software, and network security measures; employee screening, training and supervision; and appropriate agreements with employees to:
    a. Prevent anyone other than customer or its authorized employees from monitoring, using, gaining access to, or learning the import of customer data;
    b. Protect appropriate copies of customer data from loss, corruption, or unauthorized alteration;
    c. Prevent the disclosure of customer passwords and other access control information to anyone other than authorized customer employees.

11. **Segmenting**: The CSP should implement security controls that adequately safeguard against intrusion, tampering, viruses, and other security breaches (NIST SP 800-47).

12. **Penetration Testing**: Penetration testing is required for all public-facing applications. The CSP should demonstrate the ability to conduct penetration testing and establish terms with customer for testing and cost.

13. **Vulnerability Scans**: The CSP should provide vulnerability scanning services for critical systems or systems hosting sensitive data.

14. **Vulnerabilities**: Software must be free of vulnerabilities and defects. The CSP should provide attestation by an objective third party, stating that the application has been tested for common security vulnerabilities as articulated by the "OWASP Top-10" as published by the Open Web Application Security Project (see www.owasp.org for current list of the top 10). Terms should be set for damages in the case of harm to the customer due to vulnerabilities or defects.

15. **Forensic and Investigative Response**: Chain of custody should be maintained throughout the duration of the agreement for the purposes of potential forensic or legal investigation.
16. **Security Authorizations**: The CSP should be evaluated and authorized by an independent auditor on an annual basis to ensure compliance with HIPAA/HITECH, GLB, FERPA, PCIDSS, FTC, etc. and any standards. (Note: The City cannot remove its obligation to comply with applicable statutes/standards by contracting for cloud services.)
17. **Authorization and Access**: The CSP should enforce the following cybersecurity best practices:
    a. Least Privilege: Only authorize access to the minimum amount of resources required for a function.
    b. Separation of Duties: Functions shall be divided between staff members to reduce the threat that one person can commit fraud undetected.
    c. Role-Based Security: Access control shall be based on the role a user plays in an organization.
18. **Enhancements/Upgrades**: The CSP should notify the customer of any changes to the system, such as changes made as enhancements and upgrades, which can impact the security of the system.

SUPPORT

19. **Identity and Access Management**: The CSP should be able to support federated identity using standards approved by the New York City Chief Information Security Officer (CISO).
20. **Monitoring**:
    a. The CSP should provide information about monitoring methodology including tools and procedures.
    b. The CSP should be ITIL compliant.
21. **Service Level Agreements**: The CSP should have SLAs for incidents, with penalties if SLAs are missed.
22. **Support and Service Desk**:
    a. The CSP should define support model.
    b. The CSP should define what the customer can expect in terms of service.
    c. The CSP should be ITIL compliant.
23. **Change Management**: The CSP should provide a documented change management procedure.
24. **Upgrades**:
    a. The CSP should keep environment n-1 (not further than one version behind current) at all times.
    b. The CSP should give notification of upgrades.
    c. The CSP should outline how testing of upgrades will be performed.
25. **Performance Testing**: Performance testing is required for all public-facing applications. The CSP should demonstrate the ability to conduct performance testing and establish terms for testing and cost.
26. **Separation Assistance**: Agreement should establish clear terms and scope of separation assistance and guarantee elimination from the CSP of all customer data upon separation.

FEATURES & REQUIREMENTS

27. **Open Source**:
    a. The CSP should disclose the use of open source tools.
    b. The CSP should disclose the terms of the licensing for all open source tools used.
28. **Storage**: Storage should be configured in a high availability manner.
29. **Networking/Connectivity**:
    a. The CSP should disclose ability to establish varying methods of connectivity, and terms associated with establishing such connectivity.
    b. The CSP should disclose telecommunications providers used.

ADMINISTRATION

30. **Pricing & Costs**: All anticipated costs should be clearly outlined, agreed upon, and documented in the contract prior to work beginning. Any additional costs the CSP wishes to charge would require an amendment to the contract.
31. **Audit & Reporting**:
    a. The CSP should have the ability to deliver audit and reporting to the customer.
    b. Agreement should establish terms for the CSP to provide audit and reporting to the customer, the type of audit and reporting, frequency of audit and reporting, and delivery method.
32. **Vendor Management**:
    a. To mitigate risk, the contract should obligate the CSP to identify any functionality that is outsourced and to whom.
    b. The CSP should remain directly responsible for all aspects of complying with the terms of their contract, regardless of outsourcing.
    c. Agreements should include a clause requiring the CSP to provide notice prior to discontinuing a feature or functionality of its service, with a notification period in line with the time that it would take the agency to move to another solution.
    d. Agreements should include language addressing mergers and acquisitions, for instance: This Agreement shall be binding on the parties and their successors (through merger, acquisition or other process) and permitted assigns. Neither party may assign, delegate or otherwise transfer its obligations or rights under this Agreement to a Third Party without the prior written consent of the other party.
33. **Facilities**: All facilities holding the data should be physically located in the United States.
34. **Subcontractor(s)**: The City has legal requirements for vendor's use of subcontractors. All cloud provider subcontractors must be divulged in accordance with City regulation.
35. **Training**: The CSP is responsible for the provision of employee training and/or employee training materials.
36. **Liability and Indemnification**: The Law Department requires that there be indemnification and no limitation of liability, meaning that the contract does not place any limit on the amount of damages and costs the City can recover for a claim under the contract for personal injury, property damage or intellectual property infringement. The Law Department further recommends that confidentiality also be exempted from both the cap on consequential damages and any limitation on liability.
37. **Legal Compliance**: The CSP complies with applicable City legal mandates by the Department of Investigation and other authorities.
38. **Venue and Choice of Law:** Must be New York.
39. **Arbitration**: The City may not agree to binding arbitration.
40. **Click-throughs**: All click-through or click-wrap agreements presented to users in the course of using the Cloud services are inapplicable. Terms of contracts should be in static form. No terms should be set forth in hyperlinked websites.
41. **Unilateral Amendments:** The service agreement may only be modified by duly executed mutually agreed upon amendment. Unilateral changes and hyperlinked terms and conditions are inapplicable.

6.2 APPENDIX 2—Sample Cloud Service Agreement

The terms and conditions of this addendum ("**Rider**") supplement the EULA (End User License Agreement, as defined below) between _____, the Cloud provider ("**Licensor**"), and the City of New York (including any agency, office or commission), as licensee ("**City**" or "**Licensee**"), and are applicable to any procurement of hosted services from Licensor, including, but not limited to, Software as a Service (SaaS), Platform as a Service (PaaS) and Infrastructure as a Service (IaaS) provided to the City by Licensor or through a third-party reseller ("**Reseller**"). As used in this Rider, "party" refers to Licensor or Licensee (i.e., does not include a Reseller), individually, and "parties" means the Licensor and the Licensee, collectively.

The parties agree as follows:

1. Additional Definitions

"**City Data**" means information, databases, data compilations, reports, charts, graphs, diagrams, or other information created, generated or maintained by Licensor for the benefit of the City under the EULA or provided or made accessible by the City to Licensor under the EULA, including data created solely by the City's use of the Cloud Product or Software.

"**Cloud Product**" means the software-, platform-, infrastructure- or other "as a service" solution for which access is provided to the Licensee by the Licensor under the EULA.

"**EULA**" means any agreements between Licensor and Licensee that governs Licensee's use of the procured Cloud Product, and is deemed to include the terms and conditions of this Rider.

"**Privacy Laws**" means data privacy, trans-border data flow and data protection laws and regulations, including the Gramm-Leach-Bliley Act and its implementing regulations, the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations, the Health Information Technology for Economic and Clinical Health Act of 2009 and its implementing regulations, and U.S. State and New York City information security, data destruction and data breach notification laws and their implementing regulations.

"**Service Level Agreement**" **or** "**SLA**" means the term setting forth the service levels that Licensor must meet in providing the Cloud Product, including any credits to be provided for failure to meet the service levels.

2. Order of Precedence

This Rider takes precedence over any provision in the EULA or in any separate agreement between the City and Reseller. In the event of a conflict between this Rider and the EULA, the Rider will prevail. Defined terms in the EULA or an agreement between the City and Reseller will be given their ordinary meaning in this Rider.

3. Term

All terms of this Rider that should by their nature survive termination will survive, including, Sections 11 (Governing Law; Jurisdiction and Venue; Jury Waiver), 13 (City Data), and 14 (Security).

4. Authorized Users

The authorized user of the Cloud Product or Software is the City of New York, including its employees, authorized agents, consultants, auditors, other independent contractors and any external users contemplated by the parties. This paragraph does not modify the quantity of users licensed.

5. Limitation Of Liability

5.1. Subject to the provisions of Section 5.2 below, each party's aggregate liability for all claims arising out of the EULA, whether in contract, tort or otherwise, shall not exceed the greater of: (i) forty-eight (48) times the average monthly charges paid by the City to the Licensor (or Reseller, if any), calculated over the prior twelve (12) month period immediately preceding the date on which liability for the claim first arose; (ii) three times (3x) the contract value; or (iii) one million dollars ($1,000,000).

5.2. The limitation of liability set forth in Section 5.1 above will not apply to Licensor's liability arising out of any of the following: (i) Licensor's indemnification obligations under the EULA; (ii) Licensor's breach of the confidentiality provisions in this Rider; (iii) the infringement by Licensor, or any of its affiliates or subcontractors of the intellectual property of the City or of a third party; and (iv) to the extent prohibited by law.

5.3. To the extent that Licensor may be liable to the City for any action, inaction or operation of the Licensor under the EULA, including this Rider, or under statutory or common law, for which Reseller may also be liable, Licensor's and the Reseller's (if any) liabilities are joint and several, and the City is not limited in its ability to seek recourse from one or the other.

6. Warranties

6.1. <u>SLA</u>. Licensor represents and warrants that the Cloud Product or Software provided under the EULA will function in accordance with the agreed upon requirements and service levels. Licensor shall calculate and apply all service credits earned during a given billing period to the invoice for the following billing period. SLA claims and service credits will not be deemed to be waived by the passage of time or the City's failure to report an issue or request service credits.

6.2. <u>Intellectual Property</u>. Licensor represents and warrants that it has the rights necessary to license use of the Cloud Product to the Licensee in accordance with the terms of the EULA.

7. Indemnification for Intellectual Property Infringement

Licensor shall defend, indemnify and hold Licensee and its employees, officers and agents (collectively, "Indemnitees") harmless from any and all judgments, damages, liabilities, amounts paid in settlement, awards, fines, penalties, disbursements, costs and expenses (including witness fees, expert fees, investigation fees, travel expenses, bonds, the cost of establishing the right to indemnification under this Section 7, court costs and reasonable attorney's fees) to which the Indemnitees may be subjected, become liable to pay, suffer or incur in connection with any claim, allegation, suit, subpoena, action or proceeding (whether completed, actual, pending, threatened, civil, criminal, investigative, administrative, meritorious or without merit) that arises from or relates to the infringement of any copyright, trade secret, trademark, patent or other tangible or intangible property or personal right of any third party by the Licensor or its subcontractors, or by the City by its use of the Cloud Product or associated software.. Licensor shall defend, indemnify and hold the Indemnitees harmless regardless of whether or not the alleged infringement arises out of the use of the Cloud Product in a manner not expressly contemplated in the EULA or in combination with any hardware, equipment or other software not provided or authorized by Licensor. Insofar as the facts or the law relating to any claim would preclude the Indemnitees from being completely indemnified by the Licensor, the Indemnitees will be partially indemnified by the Licensor to the fullest extent permitted by the law.

8. No Additional Terms Permitted

To be valid and binding on the City, terms and conditions must bear the written signature of the Commissioner or a Deputy Commissioner of the Department of Information Technology and Telecommunications ("**DoITT**"). No online terms and conditions that are incorporated by reference in the EULA will be binding on Licensee. In addition, no shrink-wrap, click-wrap or other end user terms and conditions that are embedded in or provided with any Cloud Product are binding on Licensee, even if use of the Cloud Product or Software requires an affirmative acceptance of those terms.

9. No Portion of this Agreement may be Changed Unilaterally

No portion of the EULA, including this Rider, may be changed unilaterally. To be valid, any amendment to the EULA, including this Rider, must be in writing and signed by the parties. Any provision in the EULA to the contrary is deemed to conflict with this Rider and is be null and void.

10. Use of Third Party Providers

10.1   Licensor must identify any third party entities involved in the provision of the Cloud Product or Software and provide a copy of the agreement between the Licensor and the third party provider. The agreement must be approved in writing by the City. Any provision in the EULA to the contrary is deemed to conflict with this Rider. If Licensor proceeds with an unapproved third party provider, it will be deemed liable to the City for any third party claims to the same extent as the third party provider would be liable had it agreed to the terms set forth in this Rider.

10.2   Any subcontractor or Affiliate (as defined below) of Licensor that provides any software or services in connection with the EULA is deemed to be a subcontractor whose subcontracts must be approved in writing by the City. As used in this paragraph, "Affiliate" means any parent, subsidiary or other entity that is (directly or indirectly) controlled by, or controls, Licensor. Any provision in the EULA to the contrary is deemed to conflict with this Rider.

11. Governing Law; Jurisdiction and Venue; Jury Waiver

The laws of the State of New York, without reference to its choice of law principles, govern the EULA and any claims arising out of or relating to the EULA, its negotiation, execution, performance or breach. All disputes and controversies arising out of or relating to the negotiation, execution, performance or breach of the EULA, including this

Rider, must be resolved in the New York State or federal courts in the City, County and State of New York, and each party irrevocably consents to the exclusive venue and personal jurisdiction of those courts for the resolution of disputes and waives all objections thereto. To the fullest extent permitted by law, each party irrevocably waives its right to a jury in any litigation arising out of or relating to this EULA, its negotiation, execution, performance or breach.

12. Fees.

12.1.   The City is not responsible for an early termination fee.

12.2.   Rates and fees may only be increased pursuant to a written amendment to this Rider that has been signed by the parties. Overage and excess usage fees are not permitted in the absence of the City's prior written agreement.

12.3.   The City will not be liable for any unauthorized use, including fees and charges that may become due to Licensor as a result of that use.

12.4.   The City's payment of an invoice without objection or failure to raise an objection to an invoice will not constitute a waiver of any objections to that invoice.

13. City Data

13.1.   The City retains sole ownership and intellectual property rights in all City Data. Licensor does not have the right to retain any City Data other than as provided in this Rider. The EULA does not convey to either party any ownership right or license to use, sell, exploit, copy or further develop the other party's confidential information or intellectual property, including patents, copyrights, trademarks, trade names and trade secrets. The City hereby retains all right, title, and interest in and to any suggestion, enhancement request, recommendation, correction or other feedback provided to Licensor relating to the Cloud Product or Software, except that Licensor may use that information in connection with its provision of the Cloud Products or Software to the City.

13.2. Licensor shall encrypt all City Data while in transit and at rest using encryption standards and methods that are approved and recommended by the National Institute of Standards and Technology and comply with FIPS 140-2, Security Requirements for Cryptographic Modules. Licensor shall ensure that all City Data is segregated from other data maintained by Licensor, and that City Data is stored, maintained and processed on physical servers and storage devices that are dedicated to the City.

13.3. At all times during the City's agreement with Licensor, including during any suspension, and for a period of one hundred eighty (180) days after the end of that agreement, Licensor shall, at no cost to the City:

i. ensure that all City Data maintained by Licensor or its subcontractors remains immediately accessible to the City through an encrypted Internet connection;

ii. transmit encrypted City Data to the City in a format that complies with the City's Open Data Law (NYC Administrative Code §§ 23-501 et seq.), is easily usable by the City and does not include or require any proprietary software or other materials for its use; and

iii. within thirty (30) days after receiving a notice from the City's Chief Information Security Officer, copy and return City Data pursuant to the express written instructions set forth in the City's notice; unless otherwise specified in that notice, City Data must be returned on portable digital media that employs full disk encryption and the cryptographic keys must not be shipped with the City Data.

13.4. Licensor may not use, access, or perform any analytical analyses of any kind on data derived from the City's usage of the Cloud Product, whether anonymized or aggregated or both, except as agreed to in writing by the City in its discretion, or as required for the Licensor to provide Cloud Products for the City.

13.5. City Data must be located at all times in the United States, whether at rest, in transit

or otherwise, except as provided in writing by the City of New York Chief Information Security Officer.

13.6. Any third party, subcontractor, or affiliate of Licensor that uses or has access to City Data is also subject to the obligations of this Sections 13 (City Data) and 14 (Security) of this Rider.

13.7. At the end of the 180-day period, or as otherwise requested by the City in writing, Licensor shall immediately destroy the City Data, including any copies, extracts, descriptions, and summaries contained in Licensor's records or systems, and provide the City with a written certification setting forth the actions taken to assure destruction. All media must be sanitized in accordance with the most recent version of NIST SP 800-00, Guidelines for Media Sanitization, or its successor publication.

14. Security

14.1 Licensor shall comply with all Privacy Laws and industry best practices (e.g., PCI DSS) ("**Industry Controls**") that are applicable to the Cloud Products, including the provision of all critical security updates and patches.

14.2 Cloud Provider shall cooperate with the City's reasonable investigation of Service issues, data security and breach issues and any suspected breach of this EULA.

14.3 Licensor shall perform a semi-annual audit of the security of the computers and the computing environment it uses in processing City Data. The audit must be performed according to ISO 27001 and SOC 2 Type II standards or the industry best-practice existing at the time of the audit, if stricter. Regardless of the standard, each audit will result in the generation of an audit report, which Licensor shall provide to the City within fifteen (15) days of performing the audit.

ACKNOWLEDGED AND ACCEPTED BY:

Licensor: _____   **Licensee: <u>City of New York_____</u>**

Name: _____   **Name:_____**

Title: _____   **Title: _____**

                                                                                        Date:_____

Date: _____

APPENDIX C - PRICING WORKSHEET

PIN: 83619P0003
STARS & CACS Applications Maintenance and Support Services

New York City Department of Finance						**Annualized Costs (= monthly cost x 12)**					
									Optional Renewal Years		
DESCRIPTION	**Hourly Rate**	**Cost per Day (8-hr shift)**	**# of Staff**	**Total Cost per Day**	**Monthly Cost (TC per Day * 20)**	**Year 1**	**Year 2**	**Year 3**	**Year 4**	**Year 5**	**Total 3 Year Cost**
(1) Summons Tracking and Accounts Receivables (STARS)											
Systems Coordinator	$ -		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Application Manager	$ -		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Project Leader	$ -		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Senior Programmer / Business Analyst	$ -		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Programmer / Analyst	$ -		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Sub-Total											$ -
(2) Computer-Assisted Collection Systems (CACS)											
Systems Coordinator	$ -		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Application Manager	$ -		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Project Leader	$ -		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Senior Programmer / Business Analyst	$ -		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Programmer / Analyst	$ -		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Sub-Total											$ -
3) Other/Miscellaneous Costs											
					$ -	$ -	$ -	$ -	$ -	$ -	$ -
					$ -	$ -	$ -	$ -	$ -	$ -	$ -
					$ -	$ -	$ -	$ -	$ -	$ -	$ -
					$ -	$ -	$ -	$ -	$ -	$ -	$ -
Sub-Total											$ -
Total Cost for 3 Years											$ -

_____

Proposer's Name

_____   _____
Printed Name of Authorized Representative   **Signature of Authorized Representative**

_____