

**THE CITY OF NEW YORK  
LAW DEPARTMENT (the “Department” or the “Agency”)**

**REQUEST FOR PROPOSALS**

**PRE-PAID RETRIEVAL OF MEDICAL RECORDS FOR THE NEW YORK CITY LAW  
DEPARTMENT**

**PIN 02518X100001; E-PIN 02518P0001**

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<p style="text-align:center"><b>Proposers are advised that the Authorized Agency Contact Person for <u>all</u> matters concerning this Request for Proposals is:</b></p>
<p><b>ROBIN WAKEFIELD SENIOR COUNSEL New York City Law Department, 100 Church St., Rm. 5-209 New York, NY 10007 Phone: (212) 356-1123 Fax: (212) 356-1148 Email address: <a href="mailto:rowakefi@law.nyc.gov">rowakefi@law.nyc.gov</a></b></p>



**SECTION I - TIMETABLE**

**A. Release Date of this Request for Proposals (“RFP”): September 10, 2018**

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

**Telephone #:** (212) 356-1123  
**Fax #:** (212) 356-1148  
**E-Mail Address:** [rowakefi@law.nyc.gov](mailto:rowakefi@law.nyc.gov)

**B. PRE-PROPOSAL CONFERENCE:**

**Date:** September 24, 2018  
**Time:** 2:00 P.M.  
**Location:** New York City Law Department  
100 Church Street, New York, New York 10007

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Attendance by proposers is optional, but recommended by the Department.

Proposers and interested members of the public who wish to attend the pre-proposal conference are directed to call Robin Wakefield at 212-356-1123 at least 24 hours in advance of the pre-proposal conference to arrange for their names to be included on the pre-authorization system maintained by the management of the building. In order to gain access to the Department, persons attending the pre-proposal conference must also present at least one piece of photo identification. The Department reserves the right to limit each proposing organization to no more than one representative at the pre-proposal conference. Visitors should arrive at Security Desk in the Lobby of the Law Department, 100 Church Street, not later than 1:45 PM and identify themselves. After receiving a temporary pass to enter the building, visitors will proceed to the rear set of elevators and go to the Sixth floor Reception area, from which they will be escorted to the Pre-Proposal Room by a staff member of the Law Department. In lieu of attending in person, proposers may elect to call in to the Conference. Proposers and interested member of the public who wish to attend via teleconference are directed to email Robin Wakefield at [rowakefi@law.nyc.gov](mailto:rowakefi@law.nyc.gov) at least 24 hours in advance of the pre-proposal conference in order to receive dial-in instructions.



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

**Date:** November 2, 2018

**Time:** 5:00 p.m.

**Location:** Proposals shall be submitted to the attention of Robin Wakefield located at:

**NEW YORK CITY LAW DEPARTMENT  
100 Church Street Messenger Center, located at street level in  
the middle of the block on the Park Place side of 100 Church  
Street, New York, NY 10007.**

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

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

**D. Anticipated Contract Start Date: July 1, 2019**

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

**A. Purpose of RFP**

The New York City Law Department (the "Law Department" or the "Department" or the "Agency") is seeking a firm ("Vendor" or "Contractor") with expertise in medical record retrieval, to prepay and retrieve medical records for the City on various legal matters.

**B. Anticipated Contract Term**

It is anticipated that the term of the contract awarded from this RFP will be from July 1, 2019 to June 30, 2024.

**C. Anticipated Payment Structure: Rates for Medical Record Retrieval**

It is anticipated that the payment structure of the contract awarded from this RFP will be based on a combination of a flat fee rate per record retrieved, that includes all costs for uploading and transmission of electronic delivery, and first class mail delivery, and other related services tied to a not-to-exceed lump sum amount.



**D. Minimum Qualification Requirement**

N/A

**E. Procurement and Sourcing Solutions Portal (FORMERLY VENDEX)**

All vendors 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 this solicitation for PRE-PAID MEDICAL RECORD RETRIEVAL SERVICES should 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](http://nyc.gov/passport).

**SECTION III - SCOPE OF SERVICES**

**A. Department Goals and Objectives for this RFP**

The Department's goals and objectives for this RFP are to procure the services of a firm with expertise in medical record retrieval to pre-pay and retrieve medical records for the City on various legal matters.

**B. Department Assumptions Regarding Contractor Approach**

The Department's assumptions regarding which approach will most likely achieve the goals and objectives of this RFP are for the Medical Record Retrieval Firm to:

- provide to the Department a process acceptable to the Department for initiating requests for medical records;
- review each incoming request for medical records for completeness and accuracy;
- monitor the status of all outstanding requests for medical records and issue follow-up requests to the medical record sources;
- provide medical records electronically, e.g., by uploading and emailing medical records to the Department; providing web-based access to the medical records; or another means of electronic retrieval of medical records acceptable to the Department;
- maintain records of all outstanding requests for medical records and provide the Department with a monthly report on the status of all unfulfilled requests that are outstanding;



- advance any charges authorized by the Department for photocopy costs, administrative costs, and/or any other costs imposed by the medical record sources;
- handle an extremely high volume of medical record retrieval requests;
- have at least five years of experience handling clients with at least 1,000 or more medical record retrieval requests per year;
- be appropriately staffed to handle the Department's requests in a timely manner;
- complete the New York City Department of Information Technology and Telecommunication's ("DoITT) Cloud Review Process. Determinations by DoITT may effect selection; and
- comply with the provisions in Appendix B (Attachment Pursuant to Health Insurance Portability and Accountability Act of 1996 and Confidentiality of Board of Education Records) attached as Exhibit 1.

**C. Department Assumptions Regarding payment Structure**

It is anticipated that the payment structure of the contract awarded from this RFP will be based on a combination of fees charged for record retrieval by the Vendor, that includes all costs for uploading and transmission of electronic delivery, and first class mail delivery. Vendor may be entitled to reimbursement of costs without markup for medical record retrieval charged by third party holders of such medical records, and other related costs, to include expedited overnight delivery and/or messenger service, all tied to a not-to-exceed amount.

**D. 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 Attachment C, the Whistleblower Protection Expansion Act Rider, carefully.

**E. 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 taking steps to cease



its investments in Iran or where the proposer is a necessary sole source. Please refer to Attachment D 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.

#### **F. 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 E, 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>. Please note that no subcontracting is anticipated.

#### **G. 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 F)

#### **H. Compliance with Local Law 34 of 2007**

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



## **I. 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. Attachment H, the Paid Sick Leave Law Rider, 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 Attachment H 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.

### **A. Proposal Format**

#### **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.

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

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

##### **a. Experience**

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

- A statement of the length of time the firm has been regularly engaged in the business of retrieving medical records;
- Experience in retrieving medical records;
- Knowledge of laws and regulations governing the provision of medical records; and
- Knowledge of, and prior work experience related to the City.





b. **Organizational Capability**

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

- An organizational chart for the firm that depicts the manner in which the firm is organized, the firm's major divisions or components, the key executives in charge of those divisions, and the reporting relationships that exist among these divisions or components;
- State the size of the group within your firm that would handle the medical record retrieval for the Department;
- The firm's account management policies and procedures, including the manner in which a large account is typically serviced by the firm; and
- The firm's policies and procedures for monitoring overall client satisfaction.

In addition:

- 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;
- Attach for each key staff position a resume and/or description of the qualifications that will be required;
- State the size of your company, the number of managers, supervisors, administrative support personnel, and other staff; and
- State where your firm is based, whether it has a New York City office, and the size of the New York City office.

c. **References**

Submit references from three clients (including if possible a government entity), for whom the firm has handled medical record retrieval. Provide the name, email and telephone number of a person at the client who can discuss the reference and identify the type and number of records retrieved over the last five years

d. **Quality of Approach**

- Brief introduction outlining the overall technical approach to the proposed work;
- The Vendor's approach to receiving requests for, following-up on, and providing records to the Department in hard copy and by electronic mail;
- Discussion of the Vendor's commitment to ensure that an officer, partner or senior level employee of the firm will be available and readily accessible to the Department throughout the term of the contract; and
- Provide the number of medical record requests received and completed in the past Fiscal Year by the Vendor. In the alternative, provide this information for a





recently completed twelve month reporting period if that information is more current than would be the information provided for the most recently completed Fiscal Year.

### **3. Price Proposal**

It is the Department's intent to accept the proposing firms per record retrieval rate that includes all costs for uploading and transmission of electronic delivery, and first class mail delivery. The Department will negotiate fair and reasonable rates for related services with the proposing Vendor that are rated with the lowest price per quality point.

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

The Price Proposal should be in accordance with Sections II(C) and IV(A)(3) of this RFP and, if appropriate, should include each of the following for providing the services described in Section III of this RFP:

- The proposed per record rate based on an estimated 1,000 records retrieved annually to be uploaded and emailed, and for approximately fifty percent (50%) of the requests, the records will be requested in hard copy as well.
- Provide a description of any additional related fees the Vendor will charge to the Department, if any.

**4. Acknowledgment of Addenda** The Acknowledgment of Addenda form (Attachment I) 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 I (C), above. The proposer should complete this form as instructed on the form.

### **5. Proposal Package Submission Requirements ("Checklist")**

**THE PROPOSAL PACKAGE SHOULD CONTAIN THE FOLLOWING MATERIALS. PROPOSERS SHOULD UTILIZE THIS SECTION AS A "CHECKLIST" TO ASSURE COMPLETENESS PRIOR TO SUBMITTING THEIR PROPOSAL TO THE AGENCY.**

- a. A sealed inner envelope labeled "Technical Proposal," containing one original set and the stated number of duplicate sets of the documents listed below in the following order:
  - (i) Proposal Cover Letter (Attachment A) (Original and five [5] Copies)
  - (ii) Technical Proposal (Original and five [5] Copies)



- (iii) Fully completed Acknowledgment of Addenda (Attachment I) (Original and five [5] Copies)
  - (iv) Fully Executed Bidder's Certification Of Compliance with Iran Divestment Act (Attachment D) (Original Only, no Copies required)
- b.** In a separate sealed inner envelope labeled Price Proposal of [Name of Proposing Vendor], within the main sealed and addressed envelope, there should be one [1] original Price Proposal and five [5] Copies.
- c.** All proposals must contain a third sealed inner envelope labeled "Doing Business Data Form" containing an original, completed Doing Business Data Form (see Attachment G) (Original Only, no Copies required)

**Please note: Because we will be evaluating technical merit before considering price, it is extremely important that the Price Proposal not be included within the same document as the one containing the Technical Proposal and that the Price Proposal be delivered in a separately sealed envelope within the same package as the one containing the Technical Proposal.**

- c. Delivery** Address the external envelope, which must be sealed, enclosing any materials submitted in response to this RFP, as follows:

FROM: [Proposer Name/Address]

TO: **NEW YORK CITY LAW DEPARTMENT  
100 Church Street Messenger Center,  
(located at street level in the middle of the  
block on the Park Place side of 100  
Church Street)  
New York, NY 10007.**

Attention: ROBIN WAKEFIELD  
Senior Counsel

RFP Title: PRE-PAID MEDICAL RECORD RETRIEVAL FOR THE  
CITY OF NEW YORK

PIN: 02518X100001

E-PIN: 02518P0001



**PROPOSAL DUE DATE AND TIME: NOVEMBER 2, 2018, NO LATER THAN 5:00 PM, PROPOSALS THAT ARE LATE OR UNSEALED MAY NOT BE CONSIDERED.**

d. **Method of Delivery** Proposers are responsible for informing any commercial delivery service, if used, of all delivery requirements and for ensuring that the information required in item “c” above appears on the outer envelope used by such service.

e. **Proposal Package Checklist.** Section IV(A)(5) – The Proposal Package Checklist itemizes each component/document to be submitted as part of the Proposal Package.

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

**A. 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 technical proposals based on the Evaluation Criteria prescribed below. The proposals will be ranked in order of highest to lowest technical score and the Department will establish a shortlist through a natural break in scores. The Department reserves the right to conduct site visits and/or interviews and/or to request that proposers make presentations, as the Department deems applicable and appropriate. After such site visits and/or interviews and/or presentations, the Evaluation Committee may re-evaluate proposals and may determine a more narrow competitive range of technical merit. Although discussions may be conducted with proposers submitting acceptable proposals, the Department reserves the right to award the Contract on the basis of initial proposals received, without discussions; therefore, the proposer’s initial proposal should contain its best technical and price terms. The price proposals of the short-listed vendors will then be opened and reviewed by the evaluation committee.

**B. Evaluation Criteria**

- Demonstrated quantity and quality of successful relevant experience –60%
- Organizational capability – 30%
- Quality of approach – 10%



**C. Basis for Contract Award**

The Contract will be awarded to the responsible proposer from the shortlist, with the lowest price per quality point score whose proposal is determined to be the most advantageous to the City, taking into consideration the price in accordance with Section II(C) and IV(A)(3) of this RFP, and such other factors or criteria which are set forth in this RFP. Contract award shall be subject to the timely completion of Contract negotiations between the Law Department and the selected proposer. The Law Department reserves the right to award the Contract to other than the proposing firm that offers the lowest overall cost.

**Price Per Quality Point Analysis**

In addition to the 100 evaluation points for technical merit, the Department staff will take into consideration the proposed per record retrieval price to the Department in a separate analysis on a price per quality point basis as follows:

For example:

Vendor A has a technical merit score of 84, and proposed per record retrieved rate of \$45 to the Department.

Vendor B has a technical merit score of 83, and proposed per record retrieved rate of \$40 to the Department.

Vendor C has a technical merit score of 82, and proposed per record retrieved rate of \$30 to the Department.

Vendor D has a technical merit score of 79, and proposed per record retrieved rate of \$30 to the Department.

The formula to calculate price per quality point will be as follows:

Proposed Price per Record Retrieved for the Department DIVIDED BY Total Technical Merit Score:

Vendor A:  $\$45/84 = .536$

Vendor B:  $\$40/83 = .482$

Vendor C:  $\$30/80 = .375$

Vendor D:  $\$30/79 = .380$

The vendor with the lowest price per quality point would be selected for award. In the example above, Vendor C has the lowest price per quality point of .375 and would be selected for award.



## **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](mailto: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; Enrollment in the Procurement and Sourcing Solutions Portal ("PASSPort") (FORMERLY VENDEX), please visit [nyc.gov/passport](http://nyc.gov/passport), 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



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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 above \$1million.

**M. Charter Section 312(a) Certification.**

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.

The Agency has determined that the contract(s) to be awarded through this Request for Proposals will result in the displacement of New York City employee(s) 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

**Message from the New York City Vendor Enrollment Center**  
**Get on mailing lists for New York City contract opportunities!**



**ATTACHMENT A**

**PROPOSAL COVER LETTER**





**ATTACHMENT A**

**FORM OF  
PROPOSAL COVER  
RFP TITLE: PRE-PAID RETRIEVAL OF MEDICAL RECORDS RFP  
PIN 02518X100001; E-PIN 02518P0001**

**Proposer:**

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

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

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

**Proposer's Contact Person:**

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

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

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

**E-Mail Address:** \_\_\_\_\_

**Facsimile #** \_\_\_\_\_

**Proposer's Authorized Representative:**

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

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

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

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



**ATTACHMENT B**

**SCHEDULE B: SUBCONTRACTOR UTILIZATION  
PLAN/WAIVER  
(No Subcontracting Anticipated)**



**ATTACHMENT C**

**Whistleblower Protection Expansion Act Rider**



## WHISTLEBLOWER PROTECTION EXPANSION ACT RIDER

1. In accordance with Local Law Nos. 30-2012 and 33-2012, codified at sections 6-132 and 12-113 of the New York City Administrative Code, respectively,

- (a) 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 Contract 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.
- (b) 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 subparagraph (a) of paragraph 1 of this rider, 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.
- (c) Contractor shall post a notice provided by the City in a prominent and accessible place on any site where work pursuant to the Contract is performed that contains information about:
  - (i) 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 Contract; and
  - (ii) the rights and remedies afforded to its employees under New York City Administrative Code sections 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 Contract.
- (d) For the purposes of this rider, "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.

(e) This rider is applicable to all of Contractor's subcontractors having subcontracts with a value in excess of \$100,000; accordingly, Contractor shall include this rider in all subcontracts with a value in excess of \$100,000.

2. Paragraph 1 is not applicable to this Contract if it is valued at \$100,000 or less. Subparagraphs (a), (b), (d), and (e) of paragraph 1 are not applicable to this Contract if it was solicited pursuant to a finding of an emergency. Subparagraph (c) of paragraph 1 is neither applicable to this Contract if it was solicited prior to October 18, 2012 nor if it is a renewal of a contract executed prior to October 18, 2012.

# 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](http://www.nyc.gov/doi)

**All communications are confidential**

## **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



**← Scan the QR Code at Left to File a Complaint**

**ATTACHMENT D**

**IRAN DIVESTMENT ACT COMPLIANCE NOTICE**





**IRAN DIVESTMENT ACT COMPLIANCE RIDER FOR  
NEW YORK CITY CONTRACTORS**

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  
IRAN DIVESTMENT ACT**

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  
\_\_\_ da y of \_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public

Dated:

**ATTACHMENT E**

**SUB-CONTRACTING COMPLIANCE NOTICE**  
**(No Subcontracting Anticipated)**



**ATTACHMENT F**

**HIRING AND EMPLOYMENT RIDER: HIRENYC AND  
REPORTING REQUIREMENT**



**HIRING AND EMPLOYMENT RIDER:**  
**HIRENYC AND REPORTING REQUIREMENTS**

**Introduction**

This Rider shall apply to all contracts for goods, services, and construction with a value of one million dollars (\$1,000,000.00) or more, provided, however, that certain requirements of the Rider shall only apply as indicated below. This Rider addresses the HireNYC process, including reporting obligations under the HireNYC process, and certain other reporting requirements imposed by law. In general, the HireNYC process under this Rider requires the Contractor to enroll with the HireNYC portal for the City of New York (“the City”) found within the Department of Small Business Services’s (“SBS”) website, to disclose all entry to mid-level job opportunities described in this Rider arising from this contract and located in New York City, and to agree to interview qualified candidates from HireNYC for those opportunities.

**HireNYC Requirements**

**A. Enrollment**

The Contractor shall enroll with the HireNYC system, found at [www.nyc.gov/sbs](http://www.nyc.gov/sbs), within thirty (30) days after the registration of this Contract pursuant to Section 328 of the New York City Charter. The Contractor shall provide information about the business, designate a primary contact and say whether it intends to hire for any entry to mid-level job opportunities arising from this contract and located in New York City, and, if so, the approximate start date of the first hire.

**B. Job Posting Requirements**

Once enrolled in HireNYC, the Contractor agrees to update the HireNYC portal with all entry to mid-level job opportunities arising from this contract and located in New York City, if any, which shall be defined as jobs requiring no more than an associate degree, as provided by the New York State Department of Labor (see Column F of <https://labor.ny.gov/stats/2012-2022-NYS-Employment-Prospects.xls>). The information to be updated includes the types of entry and mid-level positions made available from the work arising from the contract and located in New York City, the number of positions, the anticipated schedule of initiating the hiring process for these positions, and the contact information for the Contractor’s representative charged with overseeing hiring. The Contractor must update the HireNYC portal with any hiring needs arising from the contract and located in New York City, and the requirements of the jobs to be filled, no less than three weeks prior to the intended first day of employment for each new position, except with the permission of SBS, not to be unreasonably withheld, and must also update the HireNYC portal as set forth below.

After enrollment through HireNYC and submission of relevant information, SBS will work with the Contractor to develop a recruitment plan which will outline the candidate screening process,

and will provide clear instructions as to when, where, and how interviews will take place. HireNYC will screen applicants based on employer requirements and refer applicants whom it believes are qualified to the Contractor for interviews. The Contractor must interview referred applicants whom it believes are qualified.

After completing an interview of a candidate referred by HireNYC, the Contractor must provide feedback via the portal within twenty (20) business days to indicate which candidates were interviewed and hired, if any. In addition, the Contractor shall provide the start date of new hires, and additional information reasonably related to such hires, within twenty (20) business days after the start date. In the event the Contractor does not have any job openings covered by this Rider in any given year, the Contractor shall be required to provide an annual update to HireNYC to that effect. For this purpose, the reporting year shall run from the date of the registration of the contract and each anniversary date.

These requirements do not limit the Contractor's ability to assess the qualifications of prospective workers, and to make final hiring and retention decisions. No provision of this Rider shall be interpreted so as to require the Contractor to employ any particular worker.

In addition, the provisions of this Rider shall not apply to positions that the Contractor intends to fill with employees employed pursuant to the job retention provision of Section 22-505 of the Administrative Code of the City of New York. The Contractor shall not be required to report such openings with HireNYC. However, the Contractor shall enroll with the HireNYC system pursuant to Section A, above, and, if such positions subsequently become open, then the remaining provisions of this Rider will apply.

### **C. Breach and Liquidated Damages**

If the Contractor fails to comply with the terms of the contract and this Rider (1) by not enrolling its business with HireNYC; (2) by not informing HireNYC, as required, of open positions; or (3) by failing to interview a qualified candidate, the contracting agency may assess liquidated damages in the amount of two-thousand five hundred dollars (\$2,500.00) per breach. For all other events of noncompliance with the terms of this Rider, the agency may assess liquidated damages in the amount of five hundred dollars (\$500) per breach.

Furthermore, in the event the Contractor breaches the requirements of this Rider during the term of the contract, the City may hold the Contractor in default of this contract.

### **Audit Compliance**

In addition to the auditing requirements set forth in other parts of the contract, the Contractor shall permit SBS and the City to inspect any and all records concerning or relating to job openings or the hiring of individuals for work arising from the contract and located in New York City. The Contractor shall permit an inspection within seven (7) business days of the request.



### **Other Reporting Requirements**

The Contractor shall report to the City, on a monthly basis, all information reasonably requested by the City that is necessary for the City to comply with any reporting requirements imposed by law or rule, including any requirement that the City maintain a publicly accessible database. In addition, the Contractor agrees to comply with all reporting requirements imposed by law or rule, or as otherwise requested by the City.

### **Construction Requirements**

Construction contractors shall comply with the HireNYC requirements set forth above for all non-trades jobs (e.g., for an administrative position arising out of the work of the contract and located in New York City) as set forth above.

In addition, construction contractors shall reasonably cooperate with SBS and the City on specific outreach events, including Hire on the Spot events, for the hiring of trades workers for the work of this contract.

Further, this contract shall be subject to a project labor agreement if so required elsewhere in this contract.

### **Federal Hiring Requirements**

The Contractor shall comply with all federal hiring requirements as may be set forth elsewhere in this contract, including, as applicable:

- Section 3 of the HUD Act of 1968, which requires, to the greatest extent feasible, economic opportunities for 30 percent of new hires be given to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- Executive Order 11246, which prohibits discrimination in employment due to race, color, religion, sex or national origin, and requires the implementation of goals for minority and female participation for work involving any Construction trade.

**ATTACHMENT G**

**DOING BUSINESS DATA FORM**



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

**Check One**

**Transaction Type (check one)**

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

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

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

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

**Entity Information**

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

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

**Filing Status**

**(Select One)**

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

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

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

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

Address \_\_\_\_\_

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

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

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

**Principal Officers**

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

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

This position does not exist

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

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

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

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

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

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

This position does not exist

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

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

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

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

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

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

This position does not exist

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

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

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

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

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

**Principal Owners**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Senior Managers**

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

**Senior Managers**

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

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

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

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

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

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

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

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

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

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

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

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

**Certification**

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

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

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

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

**ATTACHMENT H**

**PAID SICK LEAVE LAW CONTRACT RIDER**



## **PAID SICK LEAVE LAW CONTRACT RIDER**

### **Introduction and General Provisions**

The Earned Sick Time Act, also known as the Paid Sick Leave Law (“PSLL”), requires covered employees who annually perform more than 80 hours of work in New York City to be provided with paid sick time.<sup>1</sup> Contractors of the City of New York or of other governmental entities may be required to provide sick time pursuant to the PSLL.

The PSLL became effective on April 1, 2014, and is codified at Title 20, Chapter 8, of the New York City Administrative Code. It is administered by the City’s Department of Consumer Affairs (“DCA”); DCA’s rules promulgated under the PSLL are codified at Chapter 7 of Title 6 of the Rules of the City of New York (“Rules”).

Contractor agrees to comply in all respects with the PSLL and the Rules, and as amended, if applicable, in the performance of this agreement. 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.

Contractor must notify the Agency Chief Contracting Officer of the City agency or other entity with whom it is contracting in writing within ten (10) days of receipt of a complaint (whether oral or written) regarding the PSLL involving the performance of this agreement. Additionally, Contractor must cooperate with DCA’s education efforts and must comply with DCA’s subpoenas and other document demands as set forth in the PSLL and Rules.

The PSLL is summarized below for the convenience of Contractor. Contractor is advised to review the PSLL and Rules in their entirety. On the website [www.nyc.gov/PaidSickLeave](http://www.nyc.gov/PaidSickLeave) there are links to the PSLL and the associated Rules as well as additional resources for employers, such as Frequently Asked Questions, timekeeping tools and model forms, and an event calendar of upcoming presentations and webinars at which Contractor can get more information about how to comply with the PSLL. Contractor acknowledges that it is responsible for compliance with the PSLL notwithstanding any inconsistent language contained herein.

Pursuant to the PSLL and the Rules:

### **Applicability, Accrual, and Use**

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

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<sup>1</sup> Pursuant to the PSLL, if fewer than five employees work for the same employer, as determined pursuant to New York City Administrative Code §20-912(g), such employer has the option of providing such employees uncompensated sick time.

be provided at the greater of the employee's regular hourly rate or the minimum wage. Employers are not required to provide more than forty hours of sick time to an employee in any Year.

An employee has the right to determine how much sick time he or she will use, provided that employers may set a reasonable minimum increment for the use of sick time not to exceed four hours per day. In addition, an employee may carry over up to forty hours of unused sick time to the following Year, provided that no employer is required to allow the use of more than forty hours of sick time in a Year or carry over unused paid sick time if the employee is paid for such unused sick time and the employer provides the employee with at least the legally required amount of paid sick time for such employee for the immediately subsequent Year on the first day of such Year.

An employee entitled to sick time pursuant to the PSSL may use sick time for any of the following:

- such employee's mental illness, physical illness, injury, or health condition or the care of such illness, injury, or condition or such employee's need for medical diagnosis or preventive medical care;
- such employee's care of a family member (an employee's child, spouse, domestic partner, parent, sibling, grandchild or grandparent, or the child or parent of an employee's spouse or domestic partner) who has a mental illness, physical illness, injury or health condition or who has a need for medical diagnosis or preventive medical care;
- closure of such employee's place of business by order of a public official due to a public health emergency; or
- such employee's need to care for a child whose school or childcare provider has been closed due to a public health emergency.

An employer must not require an employee, as a condition of taking sick time, to search for a replacement. However, an employer may require an employee to provide: reasonable notice of the need to use sick time; reasonable documentation that the use of sick time was needed for a reason above if for an absence of more than three consecutive work days; and/or written confirmation that an employee used sick time pursuant to the PSSL. 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 PSSL must be treated by the employer as confidential.

If an employer chooses to impose any permissible discretionary requirement as a condition of using sick time, it must provide to all employees a written policy containing those requirements, using a delivery method that reasonably ensures that employees receive the policy. If such employer has not provided its written policy, it may not deny sick time to an employee because of non-compliance with such a policy.

Sick time to which an employee is entitled must be paid no later than the payday for the next regular payroll period beginning after the sick time was used.



## Exemptions and Exceptions

Notwithstanding the above, the PSLL does not apply to any of the following:

- an independent contractor who does not meet the definition of employee under section 190(2) of the New York State Labor Law;
- an employee covered by a valid collective bargaining agreement in effect on April 1, 2014 until the termination of such agreement;
- an employee in the construction or grocery industry covered by a valid collective bargaining agreement if the provisions of the PSLL are expressly waived in such collective bargaining agreement;
- an employee covered by another valid collective bargaining agreement if such provisions are expressly waived in such agreement and such agreement provides a benefit comparable to that provided by the PSLL for such employee;
- an audiologist, occupational therapist, physical therapist, or speech language pathologist who is licensed by the New York State Department of Education and who calls in for work assignments at will, determines his or her own schedule, has the ability to reject or accept any assignment referred to him or her, and is paid an average hourly wage that is at least four times the federal minimum wage;
- an employee in a work study program under Section 2753 of Chapter 42 of the United States Code;
- an employee whose work is compensated by a qualified scholarship program as that term is defined in the Internal Revenue Code, Section 117 of Chapter 20 of the United States Code; or
- a participant in a Work Experience Program (WEP) under section 336-c of the New York State Social Services Law.

## Retaliation Prohibited

An employer may not threaten or engage in retaliation against an employee for exercising or attempting in good faith to exercise any right provided by the PSLL. In addition, an employer may not interfere with any investigation, proceeding, or hearing pursuant to the PSLL.

## Notice of Rights

An employer must provide its employees with written notice of their rights pursuant to the PSLL. Such notice must be in English and the primary language spoken by an employee, provided that DCA has made available a translation into such language. Downloadable notices are available on DCA's website at <http://www.nyc.gov/html/dca/html/law/PaidSickLeave.shtml>.

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

## Records

An employer must retain records documenting its compliance with the PSSL 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 PSSL.

#### Enforcement and Penalties

Upon receiving a complaint alleging a violation of the PSSL, 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 PSSL has occurred, it has the right to issue a notice of violation to the employer.

DCA has the power to grant an employee or former employee all appropriate relief as set forth in New York City Administrative Code 20-924(d). Such relief may include, among other remedies, treble damages for the wages that should have been paid, damages for unlawful retaliation, and damages and reinstatement for unlawful discharge. In addition, DCA may impose on an employer found to have violated the PSSL civil penalties not to exceed \$500 for a first violation, \$750 for a second violation within two years of the first violation, and \$1,000 for each succeeding violation within two years of the previous violation.

#### More Generous Policies and Other Legal Requirements

Nothing in the PSSL 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 PSSL 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 PSSL may not be construed as creating or imposing any requirement in conflict with any federal or state law, rule or regulation.

**ATTACHMENT I**

**ACNOWLEDGMENT OF ADDENDA**



## ACKNOWLEDGMENT OF ADDENDA

<b>RFP TITLE: PRE-PAID RETRIEVAL OF MEDICAL RECORDS RFP</b>	<b>PIN 02518X100001 E-PIN 02518P0001</b>
<b>DIRECTIONS:</b> Complete Part I or Part II, whichever is applicable, and return this page with the proposal submitted in response to the above-referenced RFP.	
<b>PART I:</b> Listed below are the dates of issue for each and any Addendum received in connection with the above-referenced RFP:  Addendum # 1, Dated _____, 2018 Addendum # 2, Dated _____, 2018 Addendum # 3, Dated _____, 2018 Addendum # 4, Dated _____, 2018 Addendum # 5, Dated _____, 2018 Addendum # 6, Dated _____, 2018 Addendum # 7, Dated _____, 2018 Addendum # 8, Dated _____, 2018 Addendum # 9, Dated _____, 2018	
<b>PART II:</b> _____ No Addendum was received in connection with the above-referenced RFP.	
<b>Proposing Organization Name:</b> _____	
<b>Printed Name of Signatory:</b> _____	
<b>Authorized Signature:</b> _____	
<b>Date:</b> _____	



**ATTACHMENT J**

**CITY'S GENERAL CONTRACT PROVISIONS**

**Copies of the City's General contract Provisions, Appendix A,  
may be obtained by contacting:**

**Robin Wakefield  
Senior Counsel  
New York City Law Department  
Telephone: (212) 356-1123  
E-mail Address: rowakefi@law.nyc.gov**



## EXHIBIT 1

### Appendix B

(Attachment Pursuant to Health Insurance Portability and Accountability Act of 1996 and  
Confidentiality of Board of Education Records)



**APPENDIX B**

**Attachment**

**HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT**  
**CONTRACTOR OF BUSINESS ASSOCIATE PROVISIONS**

**I. DEFINITIONS**

Except as otherwise defined herein, any and all terms used in this Attachment shall have the same meaning as those terms in the HIPAA Rules (as defined below). As used in this Attachment, the following terms shall have the following meanings:

- (a) **“Attachment”** shall mean the Health Insurance Portability and Accountability Act Contractor of Business Associate Provisions constituting this attachment.
- (b) **“Breach”** shall have the same meaning as the term “breach” in 45 CFR §164.402.
- (c) **“Business Associate”** shall have the same meaning as the term “business associate” in 45 CFR §160.103, and for this Attachment shall be the City agency that is a party to the Agreement to which this is an Attachment and constitutes a business associate of Covered Entity. Business associates shall be referred to generically as “business associates.”
- (d) **“Contractor”** shall mean the person or entity with whom Business Associate has entered into the Agreement to which this is an Attachment for the purpose of Contractor performing services, functions, activities, and/or duties in accordance with such Agreement.
- (e) **“Covered Entity”** shall have the same meaning as the term “covered entity” in 45 CFR §160.103, and for this Attachment shall be any governmental entity, as applicable, that constitutes a covered entity or has a health care component on behalf of which Protected Health Information is created, received, maintained, transmitted, or accessed by Business Associate or Contractor. Covered Entities shall be referred to generically as “covered entities.”
- (f) **“Designated Record Set”** shall have the same meaning as the term “designated record set” in 45 CFR §164.501.
- (g) **“Electronic Protected Health Information”** or **“Electronic PHI”** shall have the same meaning as the term “electronic protected health information” in 45 CFR §160.103, except that Electronic PHI shall be limited to the information created, received, maintained, transmitted, or accessed by Business Associate, Contractor or its Subcontractors or agents, on behalf of Covered Entity.
- (h) **“HIPAA”** shall mean the Health Insurance Portability and Accountability Act of 1996, Public Law No. 104-191, and the regulations promulgated thereunder, as the law and regulations may be amended.

## HIPAA Form for Contractor of Business Associate Agency - Rev. August 2013

- (i) **“HIPAA Rules”** shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164, as they may be amended.
- (j) **“Individual”** shall have the same meaning as the term "individual" in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
- (k) **“Protected Health Information”** or **“PHI”** shall have the same meaning as the term "protected health information" in 45 CFR §160.103, except that PHI shall be limited to the information created, received, maintained, transmitted, or accessed by Business Associate, Contractor or its Subcontractors or agents, on behalf of Covered Entity.
- (l) **“Required by Law”** shall have the same meaning as the term "required by law" in 45 CFR §164.103.
- (m) **“Secretary”** shall mean the Secretary of the United States Department of Health and Human Services or his or her designee.
- (n) **“Security Incident”** shall have the same meaning as the term “security incident” in 45 CFR §164.304.
- (o) **“Subcontractor”** shall have the same meaning as the term “subcontractor” in 45 CFR §160.103, provided however, that the term “business associate” as used in such definition shall for purposes of this Attachment be deemed to mean “Contractor.”
- (p) **“Unsecured Protected Health Information”** or **“Unsecured PHI”** shall have the same meaning as the term “unsecured protected health information” in 45 CFR §164.402.

## II. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR

- (a) **Permitted or Required Uses.** Contractor agrees to not use or disclose Protected Health Information other than as permitted or required by this Attachment or as Required By Law.
- (b) **Appropriate Safeguards.** Contractor agrees to use appropriate safeguards to prevent use or disclosure of Protected Health Information other than as provided for by this Attachment, and with respect to Electronic Protected Health Information to comply with the requirements of Subpart C of 45 CFR Part 164 (45 CFR §164.302 et seq.) that are applicable to business associates.
- (c) **Mitigation.** Contractor agrees to mitigate, to the extent practicable, any harmful effects of which Contractor becomes aware that have resulted from any unauthorized acquisition, access, use or disclosure of Protected Health Information by Contractor, its Subcontractors or agents.
- (d) **Reporting Unauthorized Use or Disclosure.** Contractor agrees to report to Business Associate and Covered Entity, in writing, any unauthorized acquisition, access, use or disclosure of Protected Health Information by Contractor, its Subcontractors or agents in violation of this Attachment of which Contractor becomes aware. Contractor shall make such report to the



## **HIPAA Form for Contractor of Business Associate Agency - Rev. August 2013**

designated representatives of Business Associate and Covered Entity, in writing, within five (5) business days of having been made aware of such unauthorized acquisition, access, use or disclosure. Contractor agrees to fully cooperate with any investigation conducted by Business Associate or Covered Entity or their designated agents of any such unauthorized acquisition, access, use or disclosure.

### **(e) Breach Notification Under HIPAA Rules.**

(1) Contractor agrees to comply with the requirements of Subpart D of 45 CFR Part 164 (45 CFR §164.400 et seq.) that are applicable to business associates. Following the discovery of any Breach of Unsecured PHI, Contractor shall, without unreasonable delay, and in no event later than sixty (60) days after discovery of any Breach of Unsecured PHI, notify Business Associate and Covered Entity in writing of any such Breach, unless a delay in such notification is required by 45 CFR §164.412. Contractor shall provide Business Associate and Covered Entity with an explanation in writing of the basis for its determination that a Breach of Unsecured PHI has occurred and any risk assessment conducted under 45 CFR §164.402 (see paragraph (2) in definition of “Breach”), and all documentation in support of such determination.

(2) If Contractor finds that an unauthorized acquisition, access, use or disclosure of PHI has occurred and has been reported to Business Associate and Covered Entity as required by Section II(d) or Section IV(c), but has been determined not to constitute a Breach of Unsecured PHI, Contractor shall provide Business Associate and Covered Entity with an explanation in writing of the basis for such determination and any risk assessment conducted under 45 CFR §164.402 (see paragraph (2) in definition of “Breach”), and all documentation in support of such determination. Such explanation in writing shall be provided without unreasonable delay, and in no event later than sixty (60) days after the discovery of the unauthorized acquisition, access, use or disclosure of PHI.

(3) Contractor shall fully cooperate with any investigation conducted by Business Associate and/or Covered Entity or their designated agents of whether a Breach of Unsecured PHI has occurred. In the event of a disagreement between Contractor on the one hand and Business Associate and Covered Entity on the other hand as to whether or not such a Breach has occurred, the determination made by Business Associate and/or Covered Entity shall control.

(4) Contractor shall bear all costs related to its determination whether Contractor has had a Breach of Unsecured PHI. In the event a Breach of Unsecured PHI has occurred, Contractor shall reimburse Business Associate and Covered Entity for all costs incurred by them related to: (i) providing the notice required by 45 CFR §§ 164.404 and 164.406, including if applicable, but not limited to, written notice, substitute notice, additional notice in urgent situations, and notification to media; and (ii) all measures in mitigation of the harmful effects of any acquisition, access, use, or disclosure of PHI that are commercially reasonable, including but not limited to, credit monitoring services for individuals affected by such Breach, and any other commercially reasonable preventive measure. The determination of whether a measure in mitigation of the harmful effects of any acquisition, access, use, or disclosure of PHI is commercially reasonable shall be in the sole discretion of the Business Associate and Covered Entity.

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(f) **Subcontractors and Agents.** In accordance with the requirements of 45 CFR §§164.502(e)(1)(ii) and 164.308(b)(2) that are applicable to business associates, Contractor agrees to ensure that all of its Subcontractors and agents that create, receive, maintain, transmit, or access Protected Health Information on behalf of Contractor, Business Associate or Covered Entity, agree in writing to the same restrictions, conditions, and requirements that apply through this Attachment to Contractor with respect to such information. Contractor is not in compliance with this Attachment if Contractor knew of a pattern of activity or practice of a Subcontractor that constituted a material breach or violation of the Subcontractor's obligations under its subcontract, unless Contractor took reasonable steps to cure the breach or end the violation, as applicable, and if such steps were unsuccessful, terminated the subcontract, if feasible.

(g) **Access by Individual.** Contractor agrees to provide access, at the request of Covered Entity, and in the reasonable time and manner designated by the Covered Entity, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual or Individual's designee in order to satisfy Covered Entity's obligations under 45 CFR §164.524, provided that Contractor has Protected Health Information in a Designated Record Set.

(h) **Amendment to PHI.** Contractor agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of Covered Entity or an Individual, and in the reasonable time and manner designated by the Covered Entity, and to take other measures as necessary to satisfy Covered Entity's obligations under 45 CFR §164.526, provided that Contractor has Protected Health Information in a Designated Record Set.

(i) **Request for an Accounting.** Contractor agrees to document such disclosures of Protected Health Information, and information related to such disclosures, as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR §164.528. Contractor agrees to make available to Covered Entity or an Individual, in the reasonable time and manner designated by the Covered Entity, information collected pursuant to this Section II(i) in order to provide an accounting of disclosures as necessary to satisfy Covered Entity's obligations under 45 CFR §164.528.

(j) **Additional Restrictions on PHI.** If Business Associate or Covered Entity notifies Contractor that either of them has agreed to be bound by additional restrictions on the uses or disclosures of certain Protected Health Information pursuant to the HIPAA Rules, Contractor agrees to be bound by such additional restrictions and shall not disclose such PHI in violation of such additional restrictions.

(k) **Carrying Out Business Associate or Covered Entity Obligation(s).** To the extent that Contractor is to carry out one or more of Business Associate's or Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164 (45 CFR §164.500 et seq.), Contractor shall comply with the requirements of such Subpart E that apply to the Business Associate or Covered Entity, as applicable, in the performance of such obligation(s).

(l) **Access by Secretary to Determine Compliance.** Contractor agrees to make its internal practices, books, and records, including policies and procedures, relating to the use and disclosure of Protected Health Information created, received, maintained, transmitted, or accessed by Contractor on behalf of Business Associate or Covered Entity, available to the Business Associate, Covered Entity and to the Secretary, in the reasonable time and manner designated by Business Associate, Covered Entity, or the time and manner designated by the Secretary, as applicable, for purposes of determining compliance with the HIPAA Rules. Contractor shall immediately notify Business Associate and Covered Entity upon receipt of any request by the Secretary for access and of all materials to be disclosed pursuant to such request.

### **III. PERMITTED USES AND DISCLOSURES BY CONTRACTOR**

(a) **Use and Disclosure for Performance.** Except as otherwise provided in this Attachment, Contractor may only use or disclose Protected Health Information as necessary to perform services, functions, activities, and/or duties for, or on behalf of, Business Associate and Covered Entity as specified in the Agreement to which this is an Attachment, or as necessary to perform its duties under this Attachment, or as Required by Law, provided that such use or disclosure would not violate the HIPAA Rules if done by Business Associate or Covered Entity.

(b) **Disclosure to Third Parties.** Subject to Section II(f) and Section IV(b) of this Attachment, Contractor may disclose Protected Health Information to third parties as necessary to perform services, functions, activities, and/or duties for, or on behalf of, Business Associate and Covered Entity as specified in the Agreement to which this is an Attachment, or as necessary to perform its duties under this Attachment. The third parties shall provide written assurances of their confidential handling of such PHI, which shall include adherence to the same restrictions and conditions on use and disclosure as apply to Contractor herein.

(c) **Minimum Necessary Use and Disclosure.** In accordance with the requirements of the HIPAA Rules that are applicable to business associates, when using or disclosing Protected Health Information, or when requesting PHI from Business Associate, Covered Entity, or another business associate or covered entity, Contractor agrees to make reasonable efforts to limit the PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure or request.

(d) **Use for Management, Administration and Legal Responsibilities.** Contractor may use Protected Health Information if necessary for the proper management and administration of the Contractor or to carry out the legal responsibilities of the Contractor.

(e) **Disclosure for Management, Administration and Legal Responsibilities.** Contractor may disclose Protected Health Information if necessary for the proper management and administration of the Contractor or to carry out the legal responsibilities of the Contractor, provided that (1) the disclosure is Required By Law, or (2) (A) Contractor obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and (B) the person notifies the Contractor of any instances of which it is aware in which the confidentiality of the information has been breached. To the extent permitted by applicable law, prior to disclosing PHI as Required by Law to a law

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enforcement, regulatory, administrative, or oversight agency, or in response to a subpoena, court order, civil investigative demand, or other compulsory document or lawful process, Contractor shall notify Business Associate and Covered Entity of such pending disclosure and provide reasonable time for Business Associate and/or Covered Entity to oppose such disclosure, should Business Associate and/or Covered Entity deem such opposition necessary; provided, however, that if Business Associate and/or Covered Entity do not respond to Contractor regarding such opposition prior to the date on which such disclosure must be timely made, Contractor may, in its own discretion, disclose PHI as Required by Law or such lawful process.

(f) **Data Aggregation Services.** Contractor may use or disclose Protected Health Information to provide data aggregation services relating to the health care operations of the Covered Entity as such services are permitted for a business associate by 45 CFR §164.504(e)(2)(i)(B). Under no circumstances may Contractor disclose PHI to any other person or entity pursuant to this Section III(f) without the express authorization of Business Associate and Covered Entity.

(g) **De-identified PHI.** Contractor agrees that it will obtain the prior approval of Business Associate and Covered Entity before de-identifying Protected Health Information in accordance with 45 CFR §164.514(a)–(c) and utilizing such de-identified PHI.

(h) **Use of PHI or De-identified PHI for Research Purposes.** Contractor agrees that it will obtain the prior approval of Business Associate and Covered Entity for the use or disclosure of Protected Health Information or de-identified PHI for research purposes.

### IV. SECURITY REQUIREMENTS

(a) **Safeguards to Protect Electronic PHI.** Contractor agrees to comply with the requirements of Subpart C of 45 CFR Part 164 (45 CFR §164.302 et seq.) that are applicable to business associates, which include but are not limited to, implementing administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic Protected Health Information that Contractor creates, receives, maintains, transmits, or accesses on behalf of Business Associate or Covered Entity.

(b) **Subcontractors and Agents.** In accordance with the requirements of 45 CFR §§164.502(e)(1)(ii) and 164.308(b)(2) that are applicable to business associates, Contractor agrees to ensure that all of its Subcontractors and agents that create, receive, maintain, transmit, or access Electronic Protected Health Information on behalf of Business Associate or Covered Entity agree in writing to comply with the requirements of Subpart C of 45 CFR Part 164 (45 CFR §164.302 et seq.) that are applicable to business associates, which include but are not limited to, implementing reasonable and appropriate safeguards to protect such information.

(c) **Reporting Security Incident.** Contractor agrees to report to Business Associate and Covered Entity, in writing, any Security Incident involving Protected Health Information experienced by Contractor, its Subcontractors or agents, of which Contractor becomes aware. Contractor shall make such report to the designated representatives of Business Associate and Covered Entity, in writing, within five (5) business days of having been made aware of such

## **HIPAA Form for Contractor of Business Associate Agency - Rev. August 2013**

Security Incident. Contractor agrees to fully cooperate with any investigation conducted by Business Associate or Covered Entity or their designated agents of any such Security Incident.

### **V. COMPLIANCE WITH CERTAIN NEW YORK STATE LAWS**

(a) **Confidentiality Under New York Law.** Contractor agrees to comply with all applicable New York State laws and any regulations promulgated thereunder governing the confidentiality of information created, received, maintained, transmitted, or accessed by Contractor, its Subcontractors or agents on behalf of Business Associate or Covered Entity, including but not limited to the following provisions, as applicable: New York Public Health Law §18 (Access to Patient Information) and Article 27-F (HIV and AIDS Related Information); New York Mental Hygiene Law §§22.05 and 33.13; New York Civil Rights Law §79-l; New York General Business Law §399-ddd (Confidentiality of Social Security Account Numbers), §399-h and §899-aa; and chapter 5 of title 10 of the Official Compilation of Codes, Rules, and Regulations of the State of New York.

(b) **Breach Notification Under New York Law.** Pursuant to New York General Business Law (“GBL”) §899-aa(2) and (3) and in conformity with Section II(d) and Section IV(c) of this Attachment, Contractor shall, within five (5) business days of discovery thereof, notify Business Associate and Covered Entity of any “breach of the security of the system,” as defined in GBL §899-aa(1)(c), that involves Protected Health Information containing individuals’ “private information,” as defined in GBL §899-aa(1)(b), that was, or was reasonably believed to be, acquired from Contractor, its Subcontractors or agents by a person without valid authorization. Contractor shall bear all costs related to its “breach of the security of the system” under GBL §899-aa. In the event such breach has occurred, Contractor shall reimburse Business Associate and Covered Entity for all costs incurred by them related to providing the notice required by GBL §899-aa(5), including if applicable, but not limited to: written notice; electronic notice; telephone notification; substitute notice; email notice; posting of notice on web site; and notification to major statewide media.

### **VI. OBLIGATIONS OF BUSINESS ASSOCIATE AND COVERED ENTITY**

(a) **Notify of Limitation(s) in Privacy Notice.** Covered Entity will notify Business Associate, and Business Associate shall notify Contractor to the extent it has been notified by Covered Entity, of any limitation(s) in the notice of privacy practices utilized by Covered Entity under 45 CFR §164.520, to the extent that such limitation may affect Business Associate's or Contractor's use or disclosure of Protected Health Information.

(b) **Notify of Changes in Individual's Permission.** Covered Entity will notify Business Associate, and Business Associate shall notify Contractor to the extent it has been notified by Covered Entity, of any changes in, or revocation of, permission by an Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's or Contractor's use or disclosure of Protected Health Information.

(c) **Notify of Restriction on Use or Disclosure.** Covered Entity will notify Business Associate, and Business Associate shall notify Contractor to the extent that it has been notified by Covered Entity, of any restriction on the use or disclosure of Protected Health Information

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that Covered Entity has agreed to or is required to abide by under 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's or Contractor's use or disclosure of Protected Health Information.

(d) **Impermissible Request by Business Associate or Covered Entity.** Business Associate and Covered Entity shall not request Contractor to use or disclose Protected Health Information in any manner that would not be permissible under the HIPAA Rules if done by Business Associate or Covered Entity.

### VII. TERM AND TERMINATION

(a) **Term.** This Attachment shall be effective during the term of the Agreement to which this is an Attachment, or until earlier termination of such Agreement.

(b) **Termination for Violation of Material Term.** In the event that Business Associate or Covered Entity reasonably believes that Contractor may have violated a material term of this Attachment, Business Associate and Covered Entity shall have the right to investigate such violation, and Contractor shall fully cooperate with any such investigation. If Business Associate and/or Covered Entity determines that Contractor has violated a material term of this Attachment, Business Associate may immediately terminate the Agreement to which this is an Attachment without penalty or recourse to Business Associate. Alternatively, Business Associate may provide written notice to Contractor of the existence of a violation of a material term of this Attachment, and afford Contractor an opportunity to cure such violation to the satisfaction of the Business Associate within thirty (30) days of receiving notice of the violation or such other period of time as the parties may agree to. Failure to cure such violation within the applicable time period is grounds for immediate termination of the Agreement to which this is an Attachment. If Business Associate determines that neither cure of such violation nor termination is feasible, Business Associate will report such violation to the Covered Entity who may report such violation to the Secretary and/or to any other governmental agency as may be required by applicable law, and Contractor agrees that it shall not have or make any claim(s), whether at law or in equity, with respect to such report(s). Termination pursuant to this Section VII(b) shall be effectuated by a written notice to Contractor that specifies the violation upon which the termination is based and the effective date of the termination.

(c) **Effect of Termination.**

(1) Except as provided in paragraph (2) of this Section VII(c), upon termination or expiration of the Agreement to which this is an Attachment, Contractor shall return or destroy, and ensure that its Subcontractors and agents return or destroy, all Protected Health Information received from Business Associate or Covered Entity, or created, maintained, received, or accessed by or on behalf of Business Associate or Covered Entity, that the Contractor, its Subcontractors or agents still maintain in any form. Contractor shall not retain, and shall ensure that its Subcontractors and agents not retain, copies of the Protected Health Information.

(2) In the event that Contractor determines that returning or destroying the Protected Health Information is infeasible, Contractor shall provide to Business Associate and Covered Entity notification of the conditions that make return or destruction infeasible. Upon receipt by

## HIPAA Form for Contractor of Business Associate Agency - Rev. August 2013

Business Associate and Covered Entity of such notification that return or destruction of Protected Health Information is infeasible, Contractor shall extend the protections of this Attachment, and shall ensure that its Subcontractors and agents in writing extend the same protections, to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Contractor, its Subcontractors or agents, as applicable, maintain such Protected Health Information.

(d) **Non-exclusive Provisions.** The termination provisions of this Section VII are in addition to, and not in lieu of, the termination provisions provided elsewhere in the Agreement to which this is an Attachment and any other rights and remedies of the Business Associate or Covered Entity that are provided by law or by such Agreement.

### VIII. INDEMNIFICATION

(a) **Indemnification.** Without regard to any limitation of liability provision otherwise provided in the Agreement to which this is an Attachment, Contractor agrees to defend, indemnify and hold harmless Business Associate, Covered Entity, the City of New York, and their respective employees, officers, subcontractors, agents, and other members of their workforce (each of the foregoing hereinafter referred to as “indemnified party”) against all losses suffered by the indemnified party and all liability to third parties arising from or in connection with: (1) any violation or breach of the provisions of this Attachment by Contractor or its employees, directors, officers, Subcontractors, agents, or other members of its workforce; (2) any violation or breach of the provisions of the Agreement to which this is an Attachment relating to the use or disclosure of Protected Health Information; or (3) any negligent act or omission or intentional tortious act by Contractor, its employees, directors, officers, Subcontractors, agents, or other members of its workforce that result in Business Associate’s or Covered Entity’s violation of the HIPAA Rules. Accordingly, on demand, the Contractor shall reimburse the indemnified party for any and all losses, liabilities, fines, penalties, costs, or expenses (including reasonable attorneys’ fees) which may for any reason be imposed upon indemnified party by reason of any suit, claim, action, proceeding, or demand by any third party which results from the conduct described in (1), (2) or (3) above.

### IX. MISCELLANEOUS

(a) **Agency.** For purposes of this Attachment, it is the understanding and intention of the parties that Contractor is acting as an independent contractor, and not an agent, of Business Associate or Covered Entity.

(b) **References to Law and Rules.** A reference in this Attachment to any section of law or rules (including but not limited to the HIPAA Rules), means the section of law or rules as in effect or as amended.

(c) **Amendment.** In order to ensure that this Attachment at all times remains consistent with applicable law and rules regarding use and disclosure of Protected Health Information (including but not limited to the HIPAA Rules), Contractor agrees that this Attachment may be amended

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from time to time upon written notice from Business Associate to Contractor as to the revisions required to make this Attachment consistent with applicable law and rules.

(d) **Survival.** The respective rights and obligations of Contractor and Business Associate under the provisions of this Attachment shall survive the expiration or termination of the Agreement to which this is an Attachment.

(e) **Interpretation.** Any ambiguity in this Attachment shall be resolved in favor of a meaning that permits Business Associate and Covered Entity to comply with the HIPAA Rules and the applicable State laws cited in Section V of this Attachment.

(f) **No Third Party Beneficiaries.** Nothing express or implied in this Attachment is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors or assigns of the parties, any rights, remedies, obligations, or liabilities whatsoever.

(g) **More Restrictive Provisions Control.** In the event that the Agreement to which this is an Attachment contains provisions relating to the use or disclosure of Protected Health Information that are more restrictive than the provisions of this Attachment, the provisions that are more restrictive shall control.



## APPENDIX B

### CONFIDENTIALITY OF BOARD OF EDUCATION RECORDS

**A.** In the course of performing legal services related to the Matter (“Services”) under the agreement to which this Appendix B is attached (“Agreement”), the Contractor may have access to certain of the Confidential Information (as defined in paragraph (C) herein) of the City Board of Education (“Board”) and the Board’s students. Without the written consent of the Board or the New York City Law Department (“Department”), the Contractor shall not disclose any Confidential Information unless required by law or court order. The Contractor shall use such Confidential Information only for the purposes for which it was provided by the Board and/or the Department. The Contractor shall advise its employees and agents with access to the Confidential Information of its confidentiality. Upon the termination of Services, at the request of the Board or the Department, the Contractor shall return to the Board or the Department all Confidential Information that has been provided and any analyses or other documents prepared by the Contractor which reflect Confidential Information.

**B.** The Contractor and all Contractor personnel shall adhere in every respect to the law, Board policy and the Chancellor’s regulations concerning confidentiality of student records. The **Chancellor’s Regulation A-820** governing access to and the disclosure of information contained in student records is hereby incorporated by reference into the Agreement. The Contractor shall submit to the Board or the Department any and all information and data that the Contractor and Contractor personnel collect pursuant to this Agreement unless otherwise prohibited by law.

**C.** “**Confidential Information**” means: (i) any personally identifiable information related to Board students, student families or guardians, teachers, staff, agents and/or volunteers; (ii) any information marked “confidential” or any other information that a reasonable person under similar circumstances would consider to be confidential or proprietary at the time of disclosure, notwithstanding a failure to make it or identify it as such; and (iii) all derived information, findings, analysis, data, reports or other information learned or developed and based thereon; whether in oral, written, graphic, or machine-readable form. Confidential Information of the Board includes, but is not limited to, names, addresses, contact information, school, school district, grades or other reviews, scores, analysis or evaluations, records, correspondence, activities or associations, financial information, social security numbers or other identifying numbers or codes, date of birth or age, gender, religion, sexual preference, national origin, socio-economic status (including free/reduced lunch status), race, ethnicity, special education status, or English Language Learner status. The Board or the Department may provide the Contractor with certain Confidential Information, as necessary for performance of the Services, including students’ grades, transcripts, attendance data, and school schedule.

**D.** Contractor agrees to:

- (i) Hold the Confidential Information of the Board in strict confidence and not to disclose Confidential Information of the Board to any third parties nor

make use of such Confidential Information for its own benefit or for the benefit of another, or for any use other than the purpose of the Agreement.

(ii) Only disclose the Confidential Information of the Board to its employees or agents who need to know the Confidential Information of the Board, and in those instances, only to the extent justifiable by that need, and ensure that all such entities and personnel comply with the terms of the Agreement.

(iii) Adhere in every respect to the law, Board policy and the Chancellor's regulations concerning confidentiality of personally identifiable pupil records, including **Chancellor's Regulation A-820**.

(iv) Hold all individually identifiable information obtained, learned or developed by Contractor confidential pursuant to applicable provisions of the **Family Educational Rights and Privacy Act (20 U.S.C. 1232g)** and any applicable regulations promulgated thereunder. Contractor understands that the release of Confidential Information to persons or agencies not authorized to receive such information is a violation of Federal law.

(v) Whenever requested by the Board or the Department, Contractor shall promptly surrender (or destroy if surrender is not practicable) all Confidential Information of the Board and all media containing same to the Board or the Department and certify, in writing, that all of the foregoing materials have been surrendered or destroyed in accordance with the Agreement.

**E.** Unauthorized disclosure of Confidential Information by the Contractor, its Contractor personnel and agents may result in civil and/or criminal penalties under New York State and Federal laws. Moreover, in addition to all other remedies that the Board and the Department may have, the Board and the Department shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any breach of confidentiality.

**F.** The provisions of this Appendix B shall apply during and after the completion or termination of the Agreement.