



NEW YORK CITY DEPARTMENT OF
DESIGN + CONSTRUCTION

**TWO-STAGE
REQUEST
FOR
PROPOSALS**

RFP

A green silhouette map of New York City is overlaid on the blue background, positioned behind the large 'RFP' text.

**Consultant to
Perform Construction
Management/Build
Services**

PIN
8502008FI0001P

PRE-PROPOSAL CONFERENCE
March 31, 2008

PROJECT
CM/Build Construction of New Emergency Medical
Services Station, Borough of the Bronx

SUBMISSION DEADLINE
April 16, 2008

MICHAEL R. BLOOMBERG
Mayor

DAVID J. BURNEY, FAIA
Commissioner

DAVID RESNICK, AIA
Associate Commissioner
Structures Division

DEPARTMENT OF DESIGN AND CONSTRUCTION
REQUEST FOR PROPOSALS
TO PERFORM CONSTRUCTION MANAGEMENT / BUILD SERVICES FOR:

PROJECT: F175EMS39
New Emergency Medical Service Station 39
Borough of the Bronx

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PREFACE

This Request for Proposals (RFP) will be comprised of a two-stage selection process. In stage one, proposers will submit the materials prescribed in Section IV, to document the proposer's ability to act as a Construction Management/Build (CM/Build) firm for the project that is the subject of this RFP. Based on an evaluation of these materials, DDC will establish a short list of firms to be further considered in the second stage of the selection process. In stage two, the short listed firms only will be requested to submit technical proposals, including information on related standard forms 254 and 255. The technical proposals will be evaluated to determine the proposer's ability to carry out the project.

SECTION I. TIMETABLE

- A. Pre-Proposal Conference: A Pre-Proposal conference will be held at 10:00AM on Monday, March 31, 2008 at DDC Headquarters, 30-30 Thomson Avenue, Long Island City, NY 11101, Conference Room 401. Attendance at this pre-proposal conference is not mandatory to propose on the contract described in this RFP; however, it is strongly encouraged.

Stage One Submissions: Stage One Submissions (1 original and 4 copies) shall be delivered on or before 4:00PM on Wednesday, April 16, 2008. The Stage One Submission shall consist of two parts: A Portfolio and a Doing Business Data Form clearly marked with the project name and "Stage One Proposal" on the exterior of each envelope or other packaging.

Stage Two Submissions (Applicable to Stage one Short-Listed Proposers Only): Stage Two Submissions (1 original and 4 copies) shall be delivered on a date to be determined. The Stage Two Submission shall consist of ONE separate clearly marked, sealed package containing the following: (1) the Technical Proposal (1 original and 4 copies).

Proposals shall be hand delivered for the Stage One and Stage Two Submissions to the contact person at the location listed below. Proposals received after the applicable due date and time prescribed in the RFP are late and will not be accepted except at the discretion of DDC pursuant to the applicable section of the City Procurement Policy Board Rules.

Belkis Palacios, (718) 391-1866
Professional Contracts Section
Department of Design and Construction
30-30 Thomson Avenue, 4th Floor (Entrance on 30th Place)
Long Island City, NY 11101
E-mail: palaciob@ddc.nyc.gov

NOTE: Respondents are held responsible for ensuring that the RFP response package is received by the Professional Contract Section by the deadline. Respondents are warned not to rely on signed delivery slips from their messenger services. Occasionally packages are delivered to the School Construction Authority located in the same building and the packages are not forwarded to the DDC Professional Contracts Section in a timely manner. Entrance to DDC is on 30th Place, not Thomson Avenue despite our Thomson Avenue house number.

B. Inquiries: In the event a proposer desires any explanation regarding the meaning or interpretation of this RFP, such explanation must be requested in writing, no later than one week prior to the submission date prescribed in the RFP. In the event DDC determines that it is necessary to respond to the inquiry in writing, such response will be furnished as an addendum to the RFP to all potential proposers known to have downloaded the RFP. All addenda will be available on DDC's website. All inquiries must be directed ONLY to the contact person listed in Paragraph A (1) above.

C. Addenda: Receipt of an addendum to this RFP by a proposer must be acknowledged by attaching an original signed copy of the addendum to the Technical Proposal. All addenda shall become a part of the requirements for this RFP.

D. RFP Schedule

The following is the estimated timetable for receipt, evaluation, and selection of proposals. This is only an estimate and is provided to assist responding firms in planning.

- a. Establish Shortlist of Stage One Firms: Within two weeks of submission deadline
- b. Identify Consultant: Within four weeks of Stage Two submission deadline
- c. Complete Contract Registration: Approximately three months from date of consultant selection.
- d. Commence Work: Upon receipt of Notice of Award

SECTION II. SUMMARY OF THE REQUEST FOR PROPOSALS

A. Background and Objectives of the Project

The New York City Department of Design and Construction (DDC), Division of Structures, is seeking a Construction Management/Build firm (CM/Build contractor) to provide all services necessary and required for the project. The selected CM/Build contractor will be required to provide services throughout the duration of the project (i.e., pre-construction, construction and post-construction services). The services to be provided by the CM/Build contractor shall include the procurement of subcontracts, as well as the management and supervision of all required construction work from commencement through substantial completion, final acceptance, and project closeout.

The New Emergency Medical Station will be built at the same site as the current existing fire house of Ladder Company 39. This fire house has been closed for operation due to structural integrity issues. It is a frame building with no architectural distinction, and will be demolished to make way for the new EMS station. The new EMS station is needed for proper coverage and response time in the neighborhood for medical emergencies.

B. Joint Ventures and Other Consultant Relationships

There is no minimum requirement for the proportion of work by either of the two joint ventured parties. Joint ventures must carry the required insurance either as policies written specifically for the joint venture entity, or by using their existing single entity policies with endorsements written for the joint venture activity.

DDC does not recognize the corporate configuration wherein one company is "in association with" another. Relationships between two or more firms shall be either as joint venture or prime consultant/subconsultant. In the event that a proposal is received wherein two or more firms are described as being "in association with" each other, DDC will treat the relationship as one of prime consultant/subconsultant(s). The RFP evaluation will be handled accordingly, and if chosen as a winner, the contract documents will show only the prime firm on the signature page, and all other firms will be relegated to Exhibit A, which lists any subconsultants.

C. Contract Term/Cost Estimate

The term of the contract shall commence on the date set forth in the written Advice of Award and shall continue until final acceptance of all required work for the project. The estimated term of contract is 730 consecutive calendar days. However the term shall be based on the detailed project schedule submitted by the proposer as part of its Technical Proposal. The estimated cost of the required construction work for the project is \$12,980,364.

D. Insurance

The contractor and all subcontractors performing services on the project must provide the types and amounts of insurance specified in the contract. The cost of all insurance determined by the contractor to be necessary for the project is deemed included in the Multiplier. The contractor is advised to carefully review such insurance requirements.

E. Payment Provisions

Payments for all required services for the project shall be in accordance with the paragraphs below. The proposer is advised to carefully review the contract, which specifies the terms and conditions of payment. Information regarding the Fee Proposal to be submitted by the proposer is set forth in Section IV. (C) of this RFP.

1. Staffing Expenses: The contractor shall be paid for staffing expenses for construction management personnel identified in the approved Staffing Plan. Staffing expenses shall be calculated based on direct salary rates for specified personnel, subject to a Multiplier for Overhead of 2.0. The contractor shall not be entitled to payment for staffing expenses for (1) any project executive(s), and/or (2) any personnel not included in the approved Staffing Plan.
2. Fee for Profit: The contractor shall be paid a Fee for Profit. The amount of the Fee for Profit shall be calculated as a percent of the total actual cost of construction in accordance with the proposer's fee curve. As further described in this RFP, the proposer shall submit its Fee for Profit in the form of a fee curve. The terms and conditions applicable to the Fee for Profit are set forth in the contract. Such terms include: (1) the payment and retainage provisions, and (2) the definition of the total actual cost of construction for the purpose of applying the fee curve.
3. Lump Sum Monthly Fee for Field Office: The contractor shall be paid a lump sum monthly fee for providing the Field Office described in the contract, including all required office equipment. Such monthly fee is stipulated by DDC and includes all expenses for the complete provision, maintenance and operation of the Field Office.

SECTION III. SCOPE OF WORK AND CONTRACT CONDITIONS

A. Scope of Services

The selected CM/Build contractor will be required to provide all services necessary and required for the duration of the project (i.e., pre-construction, construction and post-construction services). The services to be provided by the contractor are described in detail in the contract. Such services include the procurement of subcontracts from a list of selected bidders, as well as management and supervision of all required construction work from commencement through substantial completion, final acceptance, and project close-out. The contractor shall be responsible for completing the required construction work in the specified time frame, as well as for obtaining all permits and a final certificate of occupancy for the project.

B. Contract Provisions

The services to be provided by the contractor and all standards of performance applicable to the required work are set forth in the contract. For a more complete and thorough description of the scope of services summarized in this section of the RFP, the proposer is advised to review the contract, which will be available to Stage Two short listed firms.

C. Staffing Plan

Construction management personnel shall be provided in accordance with the Staffing Plan submitted by the proposer as part of its Technical Proposal. Such Staffing Plan must identify actual personnel the contractor will provide for the entire duration of the project.

D. Construction Management Services

The contractor shall provide all construction management services necessary and required for the inspection, supervision, management, coordination and administration of the project, so that the required construction work is properly executed, completed in a timely fashion and conforms to the requirements of the construction documents and to good construction practice.

The contract sets forth in detail the construction management services to be provided by the contractor. The contract describes specific services to be provided, as well as additional services and related services. The proposer is advised to review the contract provisions.

E. Construction Work

Following DDC approval of the final design documents, the contractor will be required to enter into and supervise subcontracts for all required construction work, including the removal of hazardous materials, if necessary. The contractor shall enter into at least five separate subcontracts for general construction work, plumbing work, electrical work, HVAC work and underground fuel tank work. Prior to entering into such subcontracts, the contractor will be required to conduct a competitive bid procedure with bidders selected by the contractor and approved by DDC. The contract outlines the criteria the contractor must utilize in selecting subcontractors, as well as the required competitive procedure. An allowance will be provided in the contract for payment for construction work performed by

subcontractors. All subcontractors and the amounts of their bids must be approved by DDC.

F. Required Approvals

In order to receive substantial completion of the required work for the project, as well as payment for the same under the contract, the contractor must first obtain: (1) the required written approval of any agency having jurisdiction over the work, including without limitation, the Department of Buildings, the Fire Department and the Department of Environmental Protection, and (2) all certificates of inspection of the work. Additional requirements for a determination of substantial completion are set forth in the contract.

G. Contractor's Responsibility for Subcontractors

The contract sets forth the contractor's responsibility in the event of default by any of its subcontractors.

H. Hazardous Materials

The contractor shall, through its subcontractors, be responsible for the removal and/or remediation of hazardous materials in the area of any required demolition. Hazardous materials shall include without limitation asbestos, methane and lead.

The contractor shall, through the Allowance of Additional Services, provide independent inspection and/or air monitoring services for any required removal and/or remediation of hazardous materials. Removal and/or remediation of hazardous materials must be completed before the rest of the work in that area can proceed. In the alternative, DDC may provide such services.

I. Liquidated Damages

In accordance with the contract, DDC will specify an amount of liquidated damages to be included by the contractor in each respective subcontract for construction services. Under the contract, the contractor must pay to DDC any monies collected as liquidated damages from subcontractors.

J. M/WBE Program

The contract resulting from this Request for Proposals will be subject to the Minority-Owned Business Enterprise (M/WBE) program created by Local Law 129, the specific requirements of M/WBE participation for this contract are set forth in Attachment 7 Notice to All Prospective Contractors. Completion of M/WBE Subcontractor Utilization Plan is only applicable to stage two short listed firms.

K. 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 should complete the Doing Business Data Form (see Attachment 8) and return it with this proposal. The submission of a Doing Business Data Form that is not accurate and complete may result in appropriate sanctions.

SECTION IV. FORMAT AND CONTENT OF THE PROPOSAL

Proposal Subdivisions Instructions: Proposers should provide all information required in the format below. The proposal should be typed on both sides of 8½" X 11" paper. The City of New York requests that all proposals be submitted on paper with not less than 30% post-consumer material content, i.e., the minimum recovered fiber content level for reprographic paper recommended by the United States Environmental Protection Agency (for any changes to that standard please consult: <http://www.epa.gov/epg/products/printing.htm>). Pages should be paginated. The proposal will be evaluated on the basis of its content, not its length. Failure to comply with any of these instructions will not make the proposal non-responsive. Submit proposal in a clearly labeled, sealed package as follows:

A. Stage 1 Proposal Requirements

This project is being designed by a consultant selected for extraordinary design ability as part of the Mayor's Design Quality Initiative. The CM-Build contractor who is selected for the construction phase of the project therefore should exhibit the complementary understanding of quality contemporary design and innovative construction technology to bring the project to reality.

Portfolio (1 original and 4 copies): Provide a portfolio of up to five projects built within the last ten years that demonstrate the proposer's ability and commitment to the above goals. Present each project on one sheet of no more than on 8 ½ x 11 inches bound in covers no longer than 9x12 inches. The format may be either portrait or landscape but not both. Include the following for each project: a) a site plan; b) a three dimensional image of the project; c) a brief written description indicating how the firm contributed to the timely completion of the project; d) project area and cost information; and e) the name and contact for the designer and owner.

B. Stage II Proposal Requirements (Applicable to Stage One Short-Listed Proposers Only)

For those firms short-listed in Stage One, the Stage Two Proposal will serve to highlight their management and technical ability to carry out a project of the scope and type that is the subject of this RFP. In addition to the Stage Two Proposal, short-listed firms will be required to make a 30-minute presentation. See Section V. (B) for a more detailed description of the presentation requirements.

Technical Proposal (1 original and 4 copies): The Technical Proposal shall contain the following information:

1. A Cover Letter of no more than three pages, indicating the company name and address, and the name, address and telephone number of the person authorized to represent the firm. **(Be sure to refer to the proper DDC project number and title.)** Include a brief history of the firm, the overall firm organization, its goals and objectives and a statement of construction philosophy.
2. Experience of Firm
 - Submit SF-254 Form, which lists the number of full-time staff currently employed and the projects on which the firm is currently working, has completed and future projects and commitments. Provide the value of these

contracts and their schedules. (This form is available at <http://nyc.gov/html/ddc/html/otherfrm.html>)

- Submit SF-255 Form, which identifies the proposed Project Executive, Project Manager, Assistant Project Manager, and Project Superintendent on the subject project. A resume of each person on the project team should also be submitted in the SF-255 form. (This form is available at <http://nyc.gov/html/ddc/html/otherfrm.html>)
 - Provide examples of up to five completed projects similar in scope and type to this project completed within the last ten years. Visual materials can take the form of a printed brochure, photographs, drawings or similar images. For each project, the proposer shall provide information indicating whether the project was completed on time and within budget.
3. Staffing Plan for the Project: Submit a Staffing Plan for the project. A form for the submission of the Staffing Plan is included as Attachment 2 to this RFP. As described in Attachment 2, the proposer shall identify the following:
- Project Executive: Identify the Project Executive. The Project Executive shall serve as the contractor's principal representative with respect to its obligations under this contract. The Project Executive will be responsible for providing, on an as needed basis, executive or management expertise and oversight with respect to the project.
 - Key Construction Management (CM) Personnel: Identify Key CM Personnel for the project. This means the team of specific CM personnel determined by the proposer to be necessary for successful completion of the project. Key CM Personnel shall provide services for the entire duration of the project (Pre-construction, Construction and Post Construction Phases).
 - Other Construction Management (CM) Personnel: Identify by title other Construction Management (CM) Personnel for the project. This means CM personnel who will provide services that are supportive or ancillary to the services provided by the Key CM Personnel.
 - Total Estimated Hours Per Title: For all titles identified in the Staffing Plan, indicate the total estimated hours per title. The total estimated hours per title will be in accordance with the project schedule submitted by the proposer. (See requirement below). The total estimated hours per title shall not include any overtime hours.
 - Resumes: For all personnel included in the Staffing Plan, submit resumes detailing managerial and technical qualifications, as well as experience with similar projects.
 - Field Personnel Only: The Staffing Plan should only include personnel for the performance of construction management services in the field. It shall not include home office personnel or personnel performing home office functions.

4. Management Strategy: Provide a three-page statement describing its management strategy, including (1) its understanding of the objectives and complexities of the project, (2) its methodology for tracking and maintaining the project's budget and schedule, and (3) its techniques for problem solving.
5. Project Schedule: Submit a detailed, coordinated schedule demonstrating the time frame for completion of the entire project. Such project schedule should detail time frames for all required construction operations, as well as interrelationships between significant subcontracts and/or components of the work. Such project schedule shall not include any overtime hours. Such project schedule should specify time frames for the following activities.
 - Pre-construction
 - Procurement of subcontracts
 - Construction duration
 - Substantial completion of construction
 - Final acceptance of construction
 - Project close-out and completion of all post construction services.
6. Statement of Understanding

The Statement of Understanding form included as Attachment 1 of this RFP should be signed by a responsible partner or corporate officer of the proposing firm and submitted with firm's Technical Proposal.
7. Acknowledgement of Addenda:

The Acknowledgement of Addenda form (Attachment 5) serves as the proposer's acknowledgement of the receipt of addenda to this RFP that may have been issued by DDC prior to the Proposal Due Date and Time. The proposer should complete this form as instructed on the form.

C. Fee Proposal

Forms for the submission of the fee proposal are included as Attachments 3 and 4 of the RFP. Upon written notification, the proposer must submit the fee proposals in a separate clearly labeled, sealed package within ten business days of such notice. The Fee Proposal shall consist of the following: (1) Fee for Profit, and (2) Total Estimated Amount for Staffing.

1. Fee for Profit: A form for the submission of the Fee for Profit is included as Attachment 3 to this RFP. Submit a Fee for Profit in the form of a Fee Curve. For each increment in actual construction cost indicated on the form, the proposer shall submit a Fee for Profit, calculated as a percent of the total actual cost of construction. For actual construction costs between the increment levels designated, the Fee for Profit will be interpolated on a straight line basis.
2. Total Estimated Staffing Expenses: A form for the submission of the Total Estimated Staffing Expenses is included as Attachment 4 to this RFP. As described in Attachment 4, calculate the total estimated staffing expenses based on the items set forth below.

- Direct Salary Rate per Title: Direct Salary Rate is defined in Attachment 4.
- Total Estimated Hours per Title: The total estimated hours per title will be in accordance with the project schedule submitted by the proposer. The total estimated hours per title shall not include any overtime hours.
- Multiplier for Overhead: The Stipulated Multiplier for Overhead is 2.00.

D. Proposal Package Contents ("Checklist")

The Proposal Package should contain the following Materials:

Stage One:

1. Portfolio (1 original and 4 copies)
Sealed envelope clearly marked with "Stage One Submission"
 - Statement of Understanding (Attachment 1)
 - Acknowledgement of Addenda (Attachment 5)
2. Doing Business Data Form (1 original) (Attachment 8)
Sealed envelope clearly marked as "Doing Business Data Form" containing a completed Doing Business Data Form.

Stage Two:

1. Technical Proposal (1 original and 4 copies):
Sealed envelope clearly marked with "Stage Two Submission", including
 - Technical Proposal – Form for Staffing Plan (Attachment 2)
 - Acknowledgement of Addenda (Attachment 5)

SECTION V. PROPOSAL EVALUATION AND CONTRACT AWARD PROCEDURES

This is a Quality Based Selection (QBS) project. DDC will rank proposals by technical merit, and negotiate a fair and reasonable price with the highest ranked.

A. Stage One Selection Process

Selection Process: A DDC evaluation committee comprised of DDC and an independent construction management professional will review, evaluate and score all Stage One portfolios pursuant to the criteria prescribed below. This evaluation and scoring will determine the proposer's Stage One Technical Rating. Proposers will then be ranked in accordance with their overall Stage One Technical Ratings.

The rankings will be submitted to the Executive Consultant Selection Committee who will certify the results and determine the number of top ranked firms to be included on the short list of firms to be further considered in the Stage Two selection process.

Proposal Evaluation Criteria: The projects submitted will be evaluated based on the following criteria:

- a. **Fit, finish and construction quality (Weight 20%)**
- b. **The extent to which the firm contributed to the successful completion of the projects (Weight 20%)**
- c. **Timeliness of completion (Weight 20%)**
- d. **The quality of the cost management (Weight 20%)**
- e. **The extent to which the firm demonstrate constructability, innovative use of materials and appropriate construction technology (Weight 20%)**

B. Stage Two Selection Process (Applicable to Stage One Short-Listed Proposers Only)

1. Selection Process: A DDC evaluation committee, including an independent construction management professional, will review, evaluate, and score all technical proposals in accordance with qualitative and quantitative criteria established in Subsection 2 below. This evaluation and scoring will determine the proposer's score. DDC reserves the right to interview proposers and visit their offices for the purpose of clarifying their Proposals, after which their initial scores may be re-evaluated. Proposers shall be ranked in accordance with their scores. The ranking will be submitted to the Executive Consultant Selection Committee (ECSC) who will certify the results and authorize fee negotiation to commence with the highest ranked firm. Should negotiations fail with highest ranked firm, the ECSC will authorize fee negotiation with the next highest ranked firm. The CM firm whose proposal is determined to be the most advantageous to the City will be awarded the project.

Each Stage Two proposer will be requested to make a 30-minute presentation of their submission. Such presentation should include the following: (1) an introduction of the firm, Key Personnel and any subconsultants critical to the

success of the project; (2) explanation of the proposed project methodology, including project approach, problem solving techniques. The presentation would be structured to highlight the team's response to the Stage Two Proposal requirement. In addition, the portfolio of projects submitted for Stage One will be available for further evaluation.

Proposal Evaluation Criteria: The Proposal evaluation criteria are as follows:

- a. Experience of the Firm: (Weight 30%)
- b. Staffing Plan: (Weight 30%)
- c. Management Strategy: (Weight 25%)
- d. Project Schedule: (Weight 15%)

C. CONTRACT AWARD PROCEDURES

1. Basis of Award: The Department of Design and Construction will award contract to the responsible proposer whose proposal is determined to be the highest quality and most advantageous to the City, taking into consideration the overall quality of the proposal as measured against factors or criteria as are set forth in the Request for Proposals and successful negotiation of an appropriate fee. Such fee negotiation shall commence upon written notification and shall conclude not more than thirty days after receipt of the fee proposal.
2. Supply and Service Report: Upon selection, the successful proposer will be required to submit one original copy of the Department of Business Services Supply and Service Report, a copy of which can be downloaded from <http://www.nyc.gov/html/ddc/html/otherfrm.html>. Upon written notification, the proposer must submit the Service and Supply Report within ten days of such notification.
3. VENDEX: Upon selection, the successful proposer will be required to submit proof of filing of the appropriate VENDEX Questionnaires. Upon written notification, the proposer must submit a Confirmation of VENDEX Compliance and VENDEX Certificate of No Change to DDC within five days of official notification. A form for this confirmation is set forth in the RFP.

The proposer is advised that VENDEX Questionnaires and procedures have changed. See www.nyc.gov/vendex to download the new VENDEX Questionnaires and a Vendor's Guide to VENDEX or contact DDC's VENDEX Unit at 718-391-1845.

- (a) Submission: VENDEX Questionnaires (if required) must be submitted directly to the Mayor's Office of Contract Services, ATTN: VENDEX, 253 Broadway, 9th Floor, New York, New York 10007.
- (b) Requirement: Pursuant to Administrative Code Section 6-116.2 and the PPB Rules, proposers may be obligated to complete and submit VENDEX Questionnaires. If required, VENDEX Questionnaires must be completed and submitted before any award of contract may be made or before approval

is given for a proposed subcontractor. Non-compliance with these submission requirements may result in the disqualification of the proposal, disapproval of a subcontractor, subsequent withdrawal of approval for the use of an approved subcontractor, or the cancellation of the contract after award.

4. Contract Finalization: Upon selection, the successful proposer will be asked to finalize a contract with DDC subject to the conditions specified in this RFP and to the agency's standard contract provisions. The contents of the selected proposal, together with this RFP and any addendum(s) provided during the proposal process, may be incorporated into the final contract to be developed by the agency.

SECTION VI. GENERAL INFORMATION TO PROPOSERS

- A. Non-Binding Acceptance of Proposals: This RFP does not commit the City to award a contract for any services. Further, the City may award one or several Construction Management/Build contracts for this project.
- B. Incurring Proposal Costs: The City of New York is not liable for any costs incurred in the preparation of a response to this RFP. If proposers choose to participate in negotiations, they may be asked to submit such price, technical data, or other revisions to their proposals as may be required by the City.
- C. Confidentiality: The contents of a proposer's RFP response are not deemed confidential unless the proposer identifies those portions of its response, which it deems confidential, or containing proprietary information, or trade secrets. The proposer must provide justification as to 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.
- D. 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 firm fiscal year and / or if the contractor's performance is not satisfactory. The agency will notify the contract 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 contract will be reimbursed for those costs, if any, which are so provided for in the contract.
- E. Reserved Rights: All proposal material submitted becomes the property of the City and the City reserves the right, at its sole discretion, to:
1. Reject any and all proposals received in response to this RFP;
 2. Award a contract to other than the lowest-fee proposer;
 3. Waive, modify or correct any irregularities in proposals received, after prior notification to the proposer;
 4. Use without limitation any or all of the ideas from submitted proposals;
 5. Contract for all or selected parts of the proposer's proposal, selecting from the services offered without affecting the itemized pricing;
 6. Extend the time for submission of all proposals after notification to all prospective proposers;
 7. May conduct discussions with offerers submitting acceptable proposals, award may be made without any discussion;
 8. Terminate negotiations with a selected proposer and select the next most responsive proposer, or take such other action as deemed appropriate if negotiations fail to result in a signed contract within a reasonable time of the commencement of negotiations as determined by the Commissioner;

9. Postpone or cancel this RFP, in whole or in part, and to reject all proposals.

F. Contractual Requirements

1. Any firm awarded a contract as a result of this RFP will be required to sign the City's standard contract for Construction Management/Build Services. A copy of the contract is attached for your information. The requirements for performance of this project, as well as insurance, payment terms and all other provisions are contained in the contract.
2. Any information which may have been released either orally or in writing prior to the issuance of the RFP shall be deemed preliminary in nature and bind neither the City nor the proposer.
3. The City will deal only with the contractor and the City has no financial obligation to sub-consultants and sub-contractors of the contractor. However, all sub-consultants and sub-contractors are subject to the City's contracting requirements including Equal Employment Opportunity (Executive Order #50 of 1980 as revised).
4. If this is an Infrastructure contract for engineering design services, the proposer must negotiate with the agency the adoption of a schedule of payments and deliverables. In the event that a satisfactory decision cannot be reached regarding those schedules, the agency reserves the right to award to another proposer.
5. The prompt payment provisions set forth in the edition of the Procurement Policy Board Rules in effect at the time of this solicitation shall be applicable to payments made under a contract resulting from this solicitation. The provisions require the payment to contractors of interest payments made after the required payment date except as set forth in the rules.
6. The contractor (consultant) must submit a proper invoice to receive payment, except where the contract provides that the contractor shall be paid at predetermined intervals without having to submit an invoice for each scheduled payment. Determinations of interest due shall be made in accordance with the provisions of the Procurement Policy Board Rules and General Municipal Law 3-a.
7. 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, 10th Floor, New York, NY 10007; the telephone number is (212) 669-4600. 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.
8. This Request for Proposals and the resulting contract award(s), if any, unless otherwise stated, are subject to all applicable provision 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 accessing the City's website at nyc.gov/ppb.

9. 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 New York City Department of Business Services/Division of Labor Services Employment Report and certification by that office; submission by the proposer of the requisite VENDEX Questionnaires/Affidavits of No Charge 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 Local Based Enterprises program and its implementation rules.
10. 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.
11. 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.
12. The Agency has determined that the contract(s) to be awarded through this Request for Proposals will not directly result in the displacement of any New York City employee.

ACCO Signature

Date

ATTACHMENT 1**STATEMENT OF UNDERSTANDING**

By signing in the space provided below, the undersigned certifies that the respondent (i) has read and understands the scope and requirements of this project, as described in the RFP and all attachments; (ii) has the capacity to execute this project, (iii) agrees to accept payment in accordance with the requirements of this RFP and the standard Construction Management/Build Contract, attached hereto, and (iv) will, if its proposal is accepted, enter into the attached standard contract with the New York City Department of Design and Construction.

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

☐ **Yes**☐ **No**

I hereby certify that my firm will carry all types of insurance specified in the contract.

The undersigned further stipulates that the information in this Proposal is, to the best of knowledge, true and accurate.

Name of Proposer

By: _____
Signature of Partner or Corporate Officer

Date

Printed Name

Title

Firm

EIN #

Address

E-Mail Address

ATTACHMENT 2**TECHNICAL PROPOSAL – FORM FOR STAFFING PLAN**

FMS ID: F175EMS39
Project: New Emergency Medical Service Station 39 in the Bronx

Submission: The proposer shall submit Attachment 2 as part of its Technical Proposal.

Staffing Plan: The proposer shall submit a Staffing Plan for the project. In the space provided below, the proposer shall identify the following: (1) Project Executive, (2) Key Construction Management Personnel, and (3) other Construction Management Personnel. For all specified personnel (except the Project Executive), the proposer shall indicate the total estimated hours per title for each phase of the project. The total estimated hours per title must be in accordance with the proposer's project schedule and shall not include any overtime hours. The Staffing Plan shall only include personnel for the performance of construction management services in the field. It shall not include home office personnel or personnel performing home office functions.

Resumes: For all personnel included in the Staffing Plan, the proposer shall submit resumes detailing managerial and technical qualifications, as well as experience with similar projects

Project Executive: The proposer shall identify the Project Executive. The Project Executive shall serve as the contractor's principal representative with respect to its obligations under this contract. The Project Executive shall be responsible for providing, on an as needed basis, executive or management expertise and oversight with respect to the project.

Project Executive: _____

Key Construction Management Personnel: The proposer shall identify Key Construction Management (CM) Personnel for the project. This means the team of specific CM personnel determined by the proposer to be necessary for successful completion of the project. Key CM Personnel shall provide services for the entire duration of the project (Pre-construction, Construction and Post Construction Phases). For each phase, the proposer shall indicate the total estimated hours per title. The total estimated hours per title shall not include any overtime hours.

Key Construction Management Personnel: The proposer may add additional lines if necessary.

Title:	Name:	Total Estimated Hours per Phase		
		Pre-construction	Construction	Post Construction
Project Manager	_____	_____	_____	_____
Assistant Project Manager	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Other Construction Management Personnel: The proposer shall identify other Construction Management (CM) Personnel for the project. This means CM personnel who will provide services that are supportive or ancillary to the services provided by the Key CM Personnel. For each phase, the proposer shall indicate the total estimated hours per title. The total estimated hours per title shall not include any overtime hours.

Other Construction Management Personnel: The proposer may add additional lines if necessary.

Title:	Name:	Total Estimated Hours per Phase		
		Pre-construction	Construction	Post Construction

Certification: By signing in the space provided below, the proposer certifies that (1) the individuals proposed as Key CM Personnel are currently employed by the proposer, and (2) if an award of contract is made to the proposer, it will assign such individuals to the project as Key CM Personnel for the entire duration thereof.

The proposer understands that if an award of contract is made, the City was induced to make such award based upon the proposer's certification that it will assign to the project the individuals proposed as Key CM Personnel. The proposer further understands that failure to provide such individuals as Key CM Personnel shall be considered a material breach of the contract and grounds for termination for cause.

If the proposer is unable to make the certification set forth above, it shall attach a signed statement indicating why it is unable to make the certification.

Name of Proposer

By: _____
Signature of Partner or Corporate Officer

Date

Printed Name

Title

Firm

EIN #

ATTACHMENT 3**FEE PROPOSAL: FORM FOR FEE FOR PROFIT**

FMS ID: F175EMS39
Project: New Emergency Medical Service Station in the Bronx

Submission: To be submitted ONLY upon request: The proposer shall submit Attachments 3 and 4 as its Fee Proposal. Attachments 3 and 4 are to be submitted together in a clearly marked, sealed envelope.

Fee for Profit: In the space provided below, for each increment in actual construction cost, the proposer shall indicate a Fee for Profit, calculated as a percent of the total actual cost of construction. For actual construction costs between the levels designated, the Fee for Profit will be interpolated on a straight line basis.

Payment Provisions: Payment of the Fee for Profit shall be in accordance with Article 42 of the Contract.

<u>Total Actual Construction Cost</u>	<u>Fee for Profit as a Percent of Actual Construction Cost</u>	<u>Amount of Fee for Profit</u>
\$10,000,000	_____ %	\$ _____
\$10,500,000	_____ %	\$ _____
\$11,000,000	_____ %	\$ _____
\$11,500,000	_____ %	\$ _____
\$12,000,000	_____ %	\$ _____
\$12,500,000	_____ %	\$ _____
\$13,000,000	_____ %	\$ _____
\$13,500,000	_____ %	\$ _____
\$14,000,000	_____ %	\$ _____
\$14,500,000	_____ %	\$ _____
\$15,000,000	_____ %	\$ _____
\$15,500,000	_____ %	\$ _____
\$16,000,000	_____ %	\$ _____
\$16,500,000	_____ %	\$ _____
\$17,000,000	_____ %	\$ _____
\$17,500,000	_____ %	\$ _____
\$18,000,000	_____ %	\$ _____
\$18,500,000	_____ %	\$ _____
\$19,000,000	_____ %	\$ _____
\$19,500,000	_____ %	\$ _____
\$20,000,000	_____ %	\$ _____

Do not leave blanks - do not retype this sheet.

The proposer must sign the Fee Proposal in the space provided below.

Name of Proposer

By: _____
Signature of Partner or Corporate Officer

Date

Printed Name

Title

Firm

EIN #

ATTACHMENT 4**FEE PROPOSAL: FORM FOR STAFFING EXPENSES**

FMS ID: F175EMS39
Project: New Emergency Medical Service Station 39 in the Bronx

Submission: To be submitted ONLY upon request: The proposer shall submit Attachments 3 and 4 as its Fee Proposal. Attachments 3 and 4 are to be submitted together in a clearly marked, sealed envelope.

Total Estimated Staffing Expenses: The proposer shall calculate the total estimated staffing expenses for the project based on direct salary rate information for specified CM personnel. In completing this Attachment 4, the proposer shall provide information **IDENTICAL** to that provided in Attachment 2 regarding the specific CM personnel to be assigned to the project, as well as the total estimated hours per title. The total estimated hours per title shall not include any overtime hours.

Direct Salary Rate: An employee's actual annual direct salary shall be the salary amount directly payable to such employee on an annual basis and shall **NOT INCLUDE** any amount for the following costs or payments: (1) all payments for services performed during overtime hours; (2) all employer payments mandated by law, including without limitation, social security and medicare taxes, insurance (Worker's Compensation, Employers Liability, Unemployment); (3) all employer contributions, if any, to retirement plans, including without limitation pension and/or deferred compensation plans, and (4) all costs for any and all other fringe and/or supplemental benefits.

To compute an employee's actual annual direct salary on an hourly basis, the employee's actual annual direct salary, as defined above, shall be divided by 2080.

Phase 1: **Pre-Construction** The proposer may add additional lines if necessary.

<u>CM Personnel Name and Title</u>	<u>Direct Salary Rate (per hour)</u>		<u>Total Estimated Hours Per Title</u>		<u>Total Estimated Amount per Title</u>
(1) Project Manager:					
Name: _____	_____	x	_____	=	_____
(2) Assistant Project Manager:					
Name: _____	_____	x	_____	=	_____
(3) Title: _____					
Name: _____	_____	x	_____	=	_____
(4) Title: _____					
Name: _____	_____	x	_____	=	_____
(5) Title: _____					
Name: _____	_____	x	_____	=	_____
(6) Title: _____					
Name: _____	_____	x	_____	=	_____

(7) Title: _____

Name: _____ x _____ = _____

(8) Title: _____

Name: _____ x _____ = _____

Pre-Construction Phase

Total Estimated Amount for All Titles: _____
 (Addition of Total Estimated Amount per Title for all titles)

Total with Multiplier of 2.00: _____

Total Estimated Staffing Expenses for Pre-Construction Phase: _____

Phase 2: Construction The proposer may add additional lines if necessary.

<u>CM Personnel Title and Name</u>	<u>Direct Salary Rate (per hour)</u>	<u>Total Estimated Hours Per Title</u>	<u>Total Estimated Amount per Title</u>
--	--	--	---

(1) Project Manager:

_____ x _____ = _____

(2) Assistant Project Manager:

_____ x _____ = _____

(3) Title: _____

Name: _____ x _____ = _____

(4) Title: _____

Name: _____ x _____ = _____

(5) Title: _____

Name: _____ x _____ = _____

(6) Title: _____

Name: _____ x _____ = _____

(7) Title: _____

Name: _____ x _____ = _____

(8) Title: _____

Name: _____ x _____ = _____

Construction Phase

Total Estimated Amount for All Titles:
(Addition of Total Estimated Amount per Title for all titles) _____

Total with Multiplier of 2.00: _____

Total Estimated Staffing Expenses for Construction Phase: _____

Phase 3: Post Construction The proposer may add additional lines if necessary.

<u>CM Personnel Title and Name</u>	<u>Direct Salary Rate (per hour)</u>		<u>Total Estimated Hours Per Title</u>		<u>Total Estimated Amount per Title</u>
(1) Project Manager:					
_____	_____	x	_____	=	_____
(2) Assistant Project Manager:					
_____	_____	x	_____	=	_____
(3) Title: _____					
Name: _____	_____	x	_____	=	_____
(4) Title: _____					
Name: _____	_____	x	_____	=	_____
(5) Title: _____					
Name: _____	_____	x	_____	=	_____
(6) Title: _____					
Name: _____	_____	x	_____	=	_____

Post Construction Phase

Total Estimated Amount for All Titles:
(Addition of Total Estimated Amount per Title for all titles) _____

Total with Multiplier of 2.00: _____

Total Estimated Staffing Expenses for Post Construction Phase: _____

Grand Total: Total Estimated Staffing Expenses for the Project: _____
(Addition of Total Estimated Staffing Expenses for
Pre-Construction, Construction and Post Construction Phases)

The proposer must sign the Total Estimated Staffing Expenses for the Project in the space provided below.

Name of Proposer

By: _____
Signature of Partner or Corporate Officer

Date

Printed Name

Title

Firm

EIN #

ATTACHMENT 5**ACKNOWLEDGEMENT OF ADDENDA**

TITLE OF THE REQUEST FOR PROPOSALS:	PIN #:
Instructions: The proposer is to complete Part I or Part II of this form, whichever is applicable, and sign and date this form. This form serves as the proposer's acknowledgement of the receipt of Addenda to this Request for Proposals (RFP), which may have been issued by the Agency prior to the Proposal Due Date and Time.	

___ Part I Listed below are the dates of issue for each Addendum received in connection with this RFP. Addendum # 1, dated _____ Addendum # 2, dated _____ Addendum # 3, dated _____ Addendum # 4, dated _____ Addendum # 5, dated _____ Addendum # 6, dated _____ Addendum # 7, dated _____ Addendum # 8, dated _____ Addendum # 9, dated _____ Addendum #10, dated _____
___ Part II No Addendum was received in connection with this RFP.
Proposer Name
Proposer's Authorized Representative: Name: _____ Title: _____ Signature: _____ Date: _____

ATTACHMENT 6
CONFIRMATION OF VENDEX COMPLIANCE

The Proposer shall submit this Confirmation of Vendex Compliance

Name of Proposer: _____

Proposer's Address: _____

Proposer's Telephone Number: _____

Proposer's Fax Number: _____

Date of Proposal Submission: _____

Project ID: _____

VENDEX Compliance: To demonstrate compliance with VENDEX requirements, the proposer shall complete either Section (1) or Section (2) below, whichever applies.

(1) **Submission of Questionnaires to MOCS:** By signing in the space provided below, the proposer certifies that as of the date specified below, the proposer has submitted VENDEX Questionnaires to the Mayor's Office of Contract Services, Attn: VENDEX, 253 Broadway, 9th Floor, New York, New York 10007.

Date of Submission: _____

By: _____
(Signature of Partner or corporate officer)

Print Name: _____

(2) **Submission of Certification of No Change to DDC:** By signing in the space provided below, the proposer certifies that it has read the instructions in a "Vendor's Guide to VENDEX" and that such instructions do not require the proposer to submit VENDEX Questionnaires. The proposer has completed **TWO ORIGINALS** of the Certification of No Change.

By: _____
(Signature of Partner or corporate officer)

Print Name: _____

ATTACHMENT 7**NOTICE TO ALL PROSPECTIVE CONTRACTORS****PARTICIPATION BY MINORITY-OWNED AND WOMEN-OWNED BUSINESS
ENTERPRISES IN CITY PROCUREMENT****ARTICLE I. M/WBE PROGRAM**

Local Law No. 129 of 2005 added Section 6-129 to the Administrative Code of the City of New York. The local law creates a program for participation by minority-owned and women-owned business enterprises (MBEs and WBEs) in City procurement. As stated in the Section 6-129, the intent of the program is to address the impact of discrimination on the City's procurement process, and to promote the public interest in avoiding fraud and favoritism in the procurement process, increasing competition for City business, and lowering contract costs. The contract provisions contained herein are made pursuant to Local Law 129, and the rules of the Department of Small Business Services ("DSBS") promulgated thereunder.

If this Contract is subject to the Minority-Owned and Women-Owned Business Enterprise ("M/WBE") program created by Local Law 129, the specific requirements of M/WBE participation for this Contract are set forth in Schedule B of the Contract (entitled the "Subcontractor Utilization Plan"), and are detailed below.

The Contractor must comply with all applicable M/WBE requirements for this Contract.

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

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

PART A**PARTICIPATION GOALS FOR CONSTRUCTION
AND PROFESSIONAL SERVICES CONTRACTS**

1. The **Target Subcontracting Percentage** applicable to this Contract is set forth on Schedule B, Part I to this Contract (see Page 1, line (1)).

The "**Target Subcontracting Percentage**" is the percentage of the total Contract which Agency anticipates that the prime contractor for this Contract would in the normal course of

business award to one or more subcontractors for amounts under \$1 million for construction and professional services.

A prospective contractor may seek a full or partial pre-award waiver of the **Target Subcontracting Percentage** in accordance with Local Law 129 and Part A, Section 10 below. To apply for the a full or partial waiver of the **Target Subcontracting Percentage**, a prospective contractor must complete Part III (Page 4) of Schedule B, and must submit such request no later than seven (7) days prior to the date and time the bids or proposals are due, in writing to the Agency by e-mail at _____ or via facsimile at (____) _____. Bidders/proposers who have submitted requests will receive a response by no later than two (2) calendar days prior to the date bids or proposals are due, provided, however, that if that date would fall on a weekend or holiday, a response will be provided by close-of-business on the business day before such weekend or holiday date.

2. The **Subcontractor Participation Goals** established for this Contract are set forth on Schedule B, Part I to this Contract (see Page 1, line (2) and/or line (3)).

The **Subcontractor Participation Goals** represent a percentage of the total dollar value of all construction and/or professional services subcontracts under this Agreement for amounts under \$1 million.

3. If **Subcontractor Participation Goals** have been established for this Contract, Contractor agrees or shall agree as a material term of the Agreement that, with respect to the total amount of the Agreement to be awarded to one or more subcontractors pursuant to subcontracts for amounts under \$1 million, Contractor shall be subject to the **Subcontractor Participation Goals**, unless the goals are modified by Agency in accordance with Local Law 129 and Part A, Section 11 below.

4. If **Subcontractor Participation Goals** have been established for this Contract, a prospective contractor shall be required to submit with its bid or proposal, as applicable, a completed Schedule B, Part II Subcontractor Utilization Plan (see Page 2-3) indicating: (a) the percentage of work it intends to subcontract; (b) the percentage of work it intends to award to subcontractors for amounts under \$1 million; (c) in cases where the prospective contractor intends to award subcontracts for amounts under \$1 million, a description of the type and dollar value of work designated for participation by MBEs and/or WBEs; and (d) the general time frames in which such work by MBEs and/or WBEs is scheduled to occur. In the event that this Subcontractor Utilization Plan indicates that the bidder or proposer, as applicable, does not intend to award the **Target Subcontracting Percentage**, the bid or proposal, as applicable, shall be deemed non-responsive, unless Agency has granted the bidder or proposer, as applicable, a pre-award waiver of the **Target Subcontracting Percentage** in accordance with Local Law 129 and Part A, Section 10 below.

THE BIDDER/PROPOSER MUST FULLY COMPLETE THE SUBCONTRACTOR UTILIZATION PLAN INCLUDED HEREIN (SCHEDULE B, PART II). BIDS/PROPOSALS WHICH DO NOT INCLUDE A COMPLETED SUBCONTRACTOR UTILIZATION PLAN WILL BE DEEMED TO BE NON-RESPONSIVE,

UNLESS A FULL WAIVER OF THE TARGET SUBCONTRACTING PERCENTAGE IS GRANTED (SCHEDULE B, PART III). IN THE EVENT THAT THE SUBCONTRACTOR UTILIZATION PLAN (SCHEDULE B, PART II) INDICATES THAT THE BIDDER/PROPOSER DOES NOT INTEND TO AWARD THE TARGET SUBCONTRACTING PERCENTAGE, THE BID/PROPOSAL WILL BE DEEMED TO BE NON-RESPONSIVE, UNLESS THE AGENCY HAS GRANTED A WAIVER OF THE TARGET SUBCONTRACTING PERCENTAGE (SCHEDULE B, PART III).

5. Where a Subcontractor Utilization Plan has been submitted, the Contractor shall, within 30 days of issuance by Agency of a notice to proceed, submit a list of proposed persons or entities to which it intends to award subcontracts within the subsequent 12 months. In the case of multi-year contracts, such list shall also be submitted every year thereafter. In the event that the Contractor's selection of a subcontractor is disapproved, the Contractor shall have a reasonable time to propose alternate subcontractors.

6. M/WBE firms must be certified by DSBS in order for the Contractor to credit such firms' participation toward the attainment of the M/WBE participation goals. Such certification must occur prior to the firms' commencement of work as subcontractors. A list of M/WBE firms may be obtained from the DSBS website at www.nyc.gov/getcertified, by emailing DSBS at MWBE@sbs.nyc.gov, by calling the DSBS certification hotline at (212) 513-6311, or by visiting or writing DSBS at 110 William St., New York, New York, 10038, 7th floor. Eligible firms that have not yet been certified may contact DSBS (as indicated above) in order to seek certification.

7. Where a Subcontractor Utilization Plan has been submitted, the Contractor shall, with each voucher for payment, and/or periodically as Agency may require, submit statements, certified under penalty of perjury, which shall include, but not be limited to, the total amount paid to subcontractors (including subcontractors that are not MBEs or WBEs); the names, addresses and contact numbers of each MBE or WBE hired as a subcontractor pursuant to such plan as well as the dates and amounts paid to each MBE or WBE. The Contractor shall also submit, along with its voucher for final payment, the total amount paid to subcontractors (including subcontractors that are not MBEs or WBEs); and a final list, certified under penalty of perjury, which shall include the name, address and contact information of each subcontractor that is an MBE or WBE hired pursuant to such plan, the work performed by, and the dates and amounts paid to each.

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

9. Where a Subcontractor Utilization Plan has been submitted, and the Contractor requests a change order the value of which exceeds 10 percent of the Agreement, Agency shall establish participation goals for the work to be performed pursuant to the change order.

10. Pre-award waiver of **Target Subcontracting Percentage**. Agency may grant a full or partial waiver of the **Target Subcontracting Percentage** to a bidder or proposer, as applicable, who demonstrates—before submission of the bid or proposal—that it has legitimate business reasons for proposing the level of subcontracting in its Subcontractor Utilization Plan. In making its determination, Agency shall consider factors that shall include, but not be limited to, whether the bidder or proposer, as applicable, has the capacity and the bona fide intention to perform the Contract without any subcontracting, or to perform the Contract without awarding the amount of subcontracts for under one million dollars represented by the **Target Subcontracting Percentage**. In making such determination, Agency may consider whether the Subcontractor Utilization Plan is consistent with past subcontracting practices of the bidder or proposer, as applicable, and whether the bidder or proposer, as applicable, has made good faith efforts to identify portions of the Contract that it intends to subcontract.

11. Modification of Subcontractor Utilization Plan. A Contractor may request a modification of its Subcontractor Utilization Plan (**Subcontractor Participation Goals**) after award of this Contract. The Agency may grant such request if it determines that the Contractor has established, with appropriate documentary and other evidence, that it made reasonable, good faith efforts to meet the **Subcontractor Participation Goals**. In making such determination, Agency shall consider evidence of the following efforts, as applicable, along with any other relevant factors:

(a) The Contractor advertised opportunities to participate in the Contract, where appropriate, in general circulation media, trade and professional association publications and small business media, and publications of minority and women's business organizations;

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

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

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

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

(f) The Contractor made efforts to negotiate with MBEs and/or WBEs as relevant to perform specific subcontracts;

(g) Timely written requests for assistance made by the Contractor to Agency's M/WBE liaison officer and to DSBS;

(h) Description of how recommendations made by DSBS and Agency were acted upon and an explanation of why action upon such recommendations did not lead to the desired level of participation of MBEs and/or WBEs.

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

12. If **Subcontractor Participation Goals** have been established for this Contract, Agency shall evaluate and assess the Contractor's performance in meeting those goals, and such evaluation and assessment shall become part of the Contractor's overall contract performance evaluation.

PART B

MISCELLANEOUS

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

2. Pursuant to DSBS rules, construction contracts that include a requirement for a Subcontractor Utilization Plan shall not be subject to the law governing Locally Based Enterprises set forth in Administrative Code Section 6-108.1.

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

4. Prospective contractors are encouraged to enter into joint ventures with MBEs and WBEs.

5. By submitting a bid or proposal the Contractor hereby acknowledges its understanding of the M/WBE requirements set forth herein and the pertinent provisions of Local Law 129 of 2005, and any rules promulgated thereunder, and if awarded this Contract, the Contractor hereby agrees to comply with the M/WBE requirements of this Contract and pertinent provisions of Local Law 129 of 2005, and any rules promulgated thereunder, all of which shall be deemed to be material terms of this Contract. The Contractor hereby agrees to make all reasonable, good faith efforts to solicit and obtain the participation of M/WBE's to meet the required **Subcontractor Participation Goals**.

ARTICLE II. ENFORCEMENT

1. If Agency determines that a bidder or proposer, as applicable, has, in relation to this procurement, violated Section 6-129 or the DSBS rules promulgated pursuant to Section 6-129, Agency may disqualify such bidder or proposer, as applicable, from competing for this Contract and the Agency may revoke such bidder's or proposer's prequalification status, if applicable.

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

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

(a) entering into an agreement with the Contractor allowing the Contractor to cure the violation;

(b) revoking the Contractor's pre-qualification to bid or make proposals for future contracts;

(c) making a finding that the Contractor is in default of the Contract;

(d) terminating the Contract;

(e) declaring the Contractor to be in breach of Contract;

(f) withholding payment or reimbursement;

(g) determining not to renew the Contract;

(h) assessing actual and consequential damages;

(i) assess liquidated damages or reduction of fees, provided that liquidated damages may be based on amounts representing costs of delays in carrying out the purposes of the program established by Section 6-129, or in meeting the purposes of the Contract, the costs of meeting utilization goals through additional procurements, the administrative costs of investigation and enforcement, or other factors set forth in the Contract;

(j) exercise rights under the Contract to procure goods, services or construction from another contractor and charge the cost of such contract to the Contractor that has been found to be in noncompliance; or

(k) take any other appropriate remedy.

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

5. Statements made in any instrument submitted to Agency pursuant to Section 6-129 shall be submitted under penalty of perjury and any false or misleading statement or omission shall be grounds for the application of any applicable criminal and/or civil penalties for perjury. The making of a false or fraudulent statement by an MBE or WBE in any instrument submitted pursuant to Section 6-129 shall, in addition, be grounds for revocation of its certification.

6. The Contractor's record in implementing its Subcontractor Utilization Plan shall be a factor in the evaluation of its performance. Whenever a contracting agency determines that a contractor's compliance with a Subcontractor Utilization Plan has been unsatisfactory, the agency shall, after consultation with the city chief procurement officer, file an advice of caution form for inclusion in VENDEX as caution data.

M/WBE PROGRAM

Requirements for the participation of M/WBEs apply to construction work for the Project. Such requirements are set forth below. Prior to commencement of the construction phase, the City shall provide such M/WBE requirements to the CM/Build Contractor in a form entitled "Subcontractor Utilization Plan." The Subcontractor Utilization Plan shall be included by the CM/Build Contractor in Bid Documents for all subcontracts for construction work for the Project.

GENERAL CONSTRUCTION

Target Subcontracting Percentage	%
Total MWBE Participation Goal:	%
Black American	%
Hispanic American	%
Asian American	%

HVAC

Target Subcontracting Percentage	%
Total MWBE Participation Goal:	%
Black American	%
Hispanic American	%
Asian American	%

PLUMBING

Target Subcontracting Percentage	%
Total MWBE Participation Goal:	%
Black American	%
Hispanic American	%
Asian American	%

ELECTRICAL

Target Subcontracting Percentage	%
Total MWBE Participation Goal:	%
Black American	%
Hispanic American	%
Asian American	%

ATTACHMENT 8

DOING BUSINESS DATA FORM

DOING BUSINESS ACCOUNTABILITY PROJECT QUESTIONS AND ANSWERS ABOUT THE DOING BUSINESS DATA FORM PROPOSERS AND Awardees, Spring 2008

What is the purpose of this Data Form?

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

Why have I received this Data Form?

The contract, franchise or concession you are proposing on, or have already been awarded, is considered a business dealing with the City under LL 34. No award will be made unless this Data Form is completed. Most types of contracts, franchises and concessions valued at more than \$5,000 are considered business dealings. Exceptions include transactions awarded on an emergency basis or by publicly advertised, non-pre-qualified competitive sealed bid. Later in 2008, the types of transactions considered business dealings will be expanded to include grants, economic development agreements, pension fund investments and real property and land use transactions with the City.

What vendors will be included in the Doing Business Database?

All of the business that a vendor does or proposes to do with the City and other local governmental entities will be added together. Vendors that hold \$100,000 or more in contracts for goods or services, or franchises or concessions (\$500,000 or more for construction contracts), are considered to be doing business with the City for the purposes of this law and will be included in the *Doing Business Database*. As noted above, later in 2008 other types of transactions will also result in vendor inclusion in the database. Because all of the business that a vendor does or proposes to do with the City will be added together, you must complete the Data Form for all covered transactions even if you do not currently do enough business with the City to be listed in the Database.

What individuals will be included in the Doing Business Database?

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

- **Principal Officers** are the Chief Executive Officer (CEO), Chief Financial Officer (CFO) and Chief Operating Officer (COO), or their functional equivalents. See the *Data Form* for examples of titles that apply.
- **Principal Owners** are individuals who own or control 10% or more of the vendor. This includes stockholders, partners and anyone else with an ownership or controlling interest in the vendor.
- **Senior Managers** include anyone who, either by job title or actual duties, has substantial discretion and high-level oversight regarding the solicitation, letting or administration of any contract, franchise or concession with the City. If the vendor holds any City contracts, franchises or concessions, you must list at least one Senior Manager, or your *Data Form* will be considered incomplete. Later in 2008, senior managers responsible for the additional types of transactions indicated above will also be included in the *Doing Business Database*.

I provided some of this information on the VENDEX Questionnaire. Why do I have to do it again?

Although the *Doing Business Data Form* and the VENDEX Questionnaire request some of the same information, they serve entirely different purposes. In addition, the *Data Form* requests information concerning senior managers, which is not part of the VENDEX Questionnaire.



Will the information on this *Data Form* be available to the public?

The names and titles of the officers, owners and senior managers reported on the *Data Form* will be made available to the public, as will information about the vendor itself. However, personal identifying information, such as home address, home phone and date of birth, will not be disclosed to the public, and home address and phone number information will not be used for communication purposes.

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

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

I have already completed a *Doing Business Data Form*. Do I have to submit another one?

Yes. A vendor is required to submit a *Doing Business Data Form* each time it proposes on or enters a transaction considered business dealings with the City. However, the *Data Form* has both a No Change option, which only requires a vendor to report its EIN and sign the last page, and a Change option, which allows a vendor to only fill in applicable information that has changed since the previous completion of the *Data Form*. No vendor should have to fill out the entire *Data Form* more than once.

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

Any person who believes that s/he should not be listed may apply for removal from the *Database* by submitting a Request for Removal. Reasons that a person would be removed include his/her no longer being the principal officer, owner or senior manager of the vendor, or the vendor no longer being in business. Vendors may also update their database information by submitting an update form. Both of these forms are available online at nyc.gov/mocs (once there, click MOCS Programs) or by calling 212-788-8104.

How long will a vendor and its officers, owners and senior managers remain listed on the *Doing Business Database*?

- **Contract and Concession holders:** generally for the term of the contract or concession, plus one year.
- **Franchise holders:** from the commencement or renewal of the franchise, plus one year.
- **Contract proposers:** for one year from the proposal date or date of public advertisement of the solicitation, whichever is later.
- **Franchise and Concession proposers:** for one year from the proposal submission date.
- **Line item and discretionary appropriations:** from the date of budget adoption until the end of the contract, plus one year.

For information on other types of transactions, contact the Doing Business Accountability Project at 212-788-8104.

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

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

The *Data Form* is to be returned to the contracting agency.

If you have any questions about the *Data Form* please contact the Doing Business Accountability Project at 212-788-8104 or DoingBusiness@cityhall.nyc.gov.

02/11/07



**The City of New York
Mayor's Office of Contract Services
Doing Business Accountability Project**

For City Agency Use

Agency: _____

PIN/Contract ID/PO#: _____

Spring 2008

Doing Business Data Form - Proposers

Transaction type: ☐ Contract ☐ Franchise/Concession

A Doing Business Data Form is to be completed by any vendor that submits a proposal for a contract, franchise or concession (see Q&A sheet for more information). Please either type responses directly into this fillable form or print answers by hand in black ink. For all submissions, please be sure to sign the last page and return the completed Data Form, in a separate envelope, to the contracting agency along with your proposal. **The submission of a Data Form that is not accurate and complete may result in appropriate sanctions.**

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; no other information reported on this form will be disclosed to the public. **This Data Form is not related to the City's VENDEX requirements.**

General Instructions for Sections 2, 3, and 4:

Office Title: The actual office title held by the officer, owner or manager.

Employer (if not vendor): If the individual is not employed by the vendor, list his/her employer's name.

Certification:

Fill out the certification box on the last page completely and return the completed Data Form, in a separate envelope, to the contracting agency along with your proposal. Please contact the Doing Business Accountability Project at DoingBusiness@cityhall.nyc.gov or 212-788-8104 with any questions. Thank you for your cooperation.

Section 1: Vendor Information

Vendor Name: _____

Vendor EIN/TIN: _____

Vendor Filing Status (select one):

- ☐ Vendor 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 vendor.*
- ☐ No Change from previous Data Form dated _____. *Skip to the bottom of the last page.*

Vendor Type: ☐ Corporation (any type) ☐ Partnership (any type) ☐ Sole Proprietor ☐ Joint Venture
☐ Other (specify): _____

Vendor Address: _____

City: _____ State: _____ ZIP: _____

Vendor Phone #: _____ Vendor is a Non-Profit: ☐ Yes ☐ No

Vendor E-mail: _____

Doing Business Data Form

EIN/TIN: _____

Page 2 of 4

Section 2: Principal Officers

Please fill in the required identification information for each officer listed below. If the vendor has no such officer or its equivalent, please check the "Position does not exist" box. If the vendor is filing a Change Data Form and the person listed is replacing someone who was previously disclosed, please check the "This person replaced" box 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: _____

Office Title: _____

Employer (if not vendor): _____

Birth Date (mm/dd/yy): _____ Home Phone #: _____

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: _____

Office Title: _____

Employer (if not vendor): _____

Birth Date (mm/dd/yy): _____ Home Phone #: _____

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: _____

Office Title: _____

Employer (if not vendor): _____

Birth Date (mm/dd/yy): _____ Home Phone #: _____

Home Address: _____

☐ This person replaced former COO: _____ on date: _____

Doing Business Data Form

EIN/TIN: _____

Page 3 of 4

Section 3: Principal Owners

Please fill in the required identification information for all individuals who, through stock shares, partnership agreements or other means, **own or control 10% or more of the vendor**. If no individual owners exist, please check the appropriate box below to indicate why and skip to the next page. If the vendor is owned by other companies, those companies do not need to be listed. If an owner was identified on the previous page, fill in his/her name and write "See above." If the vendor is filing a Change Data Form, list any individuals who are no longer owners at the bottom of this page. 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 ☐ There are no individual owners ☐ No individual owner holds 10% or more shares in the entity
☐ Other (explain): _____

Principal Owners (who own or control 10% or more of the vendor):

First Name: _____ MI: _____ Last: _____

Office Title: _____

Employer (if not vendor): _____

Birth Date (mm/dd/yy): _____ Home Phone #: _____

Home Address: _____

First Name: _____ MI: _____ Last: _____

Office Title: _____

Employer (if not vendor): _____

Birth Date (mm/dd/yy): _____ Home Phone #: _____

Home Address: _____

First Name: _____ MI: _____ Last: _____

Office Title: _____

Employer (if not vendor): _____

Birth Date (mm/dd/yy): _____ Home Phone #: _____

Home Address: _____

Remove the following previously-reported Principal Owners:

Name: _____ Removal Date: _____

Name: _____ Removal Date: _____

Name: _____ Removal Date: _____

Doing Business Data Form

EIN/TIN: _____

Page 4 of 4

Section 4: Senior Managers

Please fill in the required identification information for all senior managers who oversee any of the vendor's contracts (if this is a contract proposal) or franchises and concessions (if this is a franchise or concession proposal) with the City. 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 contract, franchise or concession 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 vendor is filing a Change Data Form, list any 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: _____
 Office Title: _____ Employer (if not vendor): _____
 Birth Date (mm/dd/yy): _____ Home Phone #: _____
 Home Address: _____

First Name: _____ MI: _____ Last: _____
 Office Title: _____ Employer (if not vendor): _____
 Birth Date (mm/dd/yy): _____ Home Phone #: _____
 Home Address: _____

First Name: _____ MI: _____ Last: _____
 Office Title: _____ Employer (if not vendor): _____
 Birth Date (mm/dd/yy): _____ Home Phone #: _____
 Home Address: _____

Remove the following previously-reported Senior Managers:

Name: _____ Removal Date: _____
 Name: _____ Removal Date: _____
 Name: _____ Removal Date: _____

Vendor Certification

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

Name: _____
 Signature: _____ Date: _____
 Vendor Name: _____
 Title: _____ Work Phone #: _____

Return the completed Data Form to the contracting agency along with your proposal.

For information or assistance, call the Doing Business Accountability Project at 212-788-8104.



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